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7 on behalf of himself and similarly situated employees

8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**

10 CHAZ PEREZ,

11 Plaintiff,

12 vs.

13
14 TOO INFINITY MANAGEMENT, LLC, a
California Limited Liability Company; TOO
15 INFINITY MANAGEMENT, LLC DBA
HUMBLE ROOT, a California Limited
16 Liability Company; HUMBLE ROOT
INTERNATIONAL, INC., a California
17 Corporation; HUMBLE ROOT
WORLDWIDE, INC., a California
18 Corporation; JAVIER HERNANDEZ, an
individual; CHRIS THAO, an individual;
19 JUSTIN JACINTO, an individual; and DOES
20 1 to 100, inclusive,

21 Defendants.
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Case No.

34-2020-00285276

COMPLAINT FOR DAMAGES:

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Failure to Reimburse Expenses
8. Failure to Keep Accurate Time Records
9. Unfair Competition
10. Private Attorneys General Act Claims
(Labor Code § 2699 *et seq.*)

DEMAND FOR JURY TRIAL

1 Plaintiff CHAZ PEREZ ("Plaintiff") hereby files this Complaint against Defendants TOO
2 INFINITY MANAGEMENT, LLC, a California Limited Liability Company; TOO INFINITY
3 MANAGEMENT, LLC DBA HUMBLE ROOT, a California Limited Liability Company;
4 HUMBLE ROOT INTERNATIONAL, INC., a California Corporation; HUMBLE ROOT
5 WORLDWIDE, INC., a California Corporation; JAVIER HERNANDEZ, an individual; CHRIS
6 THAO, an individual; JUSTIN JACINTO, an individual; and DOES 1 to 100, inclusive (hereinafter
7 all collectively referred to as ("Defendants")). On information and belief, Plaintiff alleges the
8 following:

9 INTRODUCTION

10 1. This is a lawsuit brought by Plaintiff for individual claims and Private Attorneys General
11 Act claims. Plaintiff has brought this lawsuit because of Defendants' failure to pay overtime wages,
12 failure to pay minimum wages, failure to provide meal periods or pay premiums in lieu thereof, failure
13 to provide rest periods or pay premiums in lieu thereof, failure to provide accurate wage statements,
14 failure to pay final wages, failure to provide paid sick leave, failure to keep accurate time records, and
15 violation of Labor Code sections 558 and 558.1. Defendants jointly own and operate a marijuana online
16 retail business that sells and delivers marijuana to customers. Plaintiff worked as a courier for
17 Defendants.

18 JURISDICTION AND VENUE

19 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
20 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
21 Labor Code, California Business and Professions Code, and Wage Order No. 7.

22 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), and 395.5, in that
23 Defendants reside in Sacramento County and/or are foreign entities and have not designated any county
24 in California as being where they maintain their principal offices. In addition, some of the wrongful acts
25 and violations of law asserted herein occurred within Sacramento County, and Defendants' obligation to
26 pay wages arose in Sacramento County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36
27 Cal.3d 403, 414 (1984).

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4. Plaintiff has sought permission pursuant to California Labor Code section 2699 *et seq.* to pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3, Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency (“LWDA”) on approximately July 2, 2020. Plaintiff provided facts and legal bases for his claims within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause of action. Plaintiff also submitted the \$75.00 filing fee. The July 2, 2020 notice was also sent via certified mail to Defendants on the same day. To date, the LWDA has not provided any response to Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of himself and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005). Aggrieved Employees include but is not limited to the following: All non-exempt employees who are currently working or have worked for Defendants within the applicable statute of limitations up to the present date.

PARTIES

5. CHAZ PEREZ is an individual over the age of eighteen (18) and is a resident of the State of California.

6. On information and belief, Plaintiff alleges TOO INFINITY MANAGEMENT, LLC is now and/or at all times mentioned in this Complaint was a California Limited Liability Company and the owner and operator of an industry, business and/or facility doing business in the State of California.

7. On information and belief, Plaintiff alleges TOO INFINITY MANAGEMENT, LLC DBA HUMBLE ROOT is now and/or at all times mentioned in this Complaint was a California Limited Liability Company and the owner and operator of an industry, business and/or facility doing business in the State of California.

8. Plaintiff is informed and believes, and thereupon alleges, that JAVIER HERNANDEZ is an individual over the age of eighteen (18) and is a resident of the State of California. Plaintiff

1 further alleges that JAVIER HERNNDEZ is an owner, director, officer, and/or managing agent of
2 TOO INFINITY MANAGEMENT, LLC, TOO INFINITY MANAGEMENT, LLC DBA HUMBLE
3 ROOT, HUMBLE ROOT INTERNATIONAL, INC., and HUMBLE ROOT WORLDWIDE, INC.,
4 responsible for causing the violations of the California Labor code asserted in this Complaint. As
5 such JAVIER HERNANDEZ is individually liable pursuant to California Labor Code section 558.1.

6 9. Plaintiff is informed and believes, and thereupon alleges, that CHRIS THAO is an
7 individual over the age of eighteen (18) and is a resident of the State of California. Plaintiff further
8 allege(s) that CHRIS THAO is an owner, director, officer, and/or managing agent of TOO
9 INFINITY MANAGEMENT, LLC, TOO INFINITY MANAGEMENT, LLC DBA HUMBLE
10 ROOT, HUMBLE ROOT INTERNATIONAL, INC., and HUMBLE ROOT WORLDWIDE, INC.,
11 responsible for causing the violations of the California Labor Code asserted in this Complaint. As
12 such CHRIS THAO is individually liable pursuant to California Labor Code section 558.1.

13 10. Plaintiff is informed and believes, and thereupon alleges, that JUSTIN JACINTO is
14 an individual over the age of eighteen (18) and is a resident of the State of California. Plaintiff
15 further allege(s) that JUSTIN JACINTO is an owner, director, officer, and/or managing agent of
16 TOO INFINITY MANAGEMENT, LLC, TOO INFINITY MANAGEMENT, LLC DBA HUMBLE
17 ROOT, HUMBLE ROOT INTERNATIONAL, INC., and HUMBLE ROOT WORLDWIDE, INC.,
18 responsible for causing the violations of the California Labor Code asserted in this Complaint. As
19 such JUSTIN JACINTO is individually liable pursuant to California Labor Code section 558.1.

20 11. On information and belief, Plaintiff alleges HUMBLE ROOT INTERNATIONAL,
21 INC., is now and/or at all times mentioned in this Complaint was a California Corporation and the
22 owner and operator of an industry, business and/or facility doing business in the State of California.

23 12. On information and belief, Plaintiff alleges HUMBLE ROOT WORLDWIDE, INC.,
24 is now and/or at all times mentioned in this Complaint was a California Corporation and the owner
25 and operator of an industry, business and/or facility doing business in the State of California.

26 13. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and
27 the alter egos of each of the other Defendants named herein, corporate or otherwise, who participated
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1 in and are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege
2 the true names and capacities of these DOE Defendants when they are ascertained.

3 14. At all times mentioned herein, each Defendant was the agent or employee of each of
4 the other Defendants and was acting within the course and scope of such agency or employment.
5 The Defendants are jointly and severally liable to Plaintiff.

6 15. Defendants, and each of them, are now and/or at all times mentioned in this
7 Complaint were members of and/or engaged in a joint employment, joint venture, partnership and
8 common enterprise, and were acting within the course and scope of, and in pursuance of said joint
9 employment, joint venture, partnership and common enterprise.

10 16. Defendants, and each of them, now and/or at all times mentioned in this Complaint
11 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

12 17. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
13 wrongs, complaints, injuries and/or damages alleged in this Complaint.

14 **GENERAL ALLEGATIONS**

15 18. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 17 as though fully
16 set forth herein.

17 19. Plaintiff Chaz Perez worked for Defendants from November 2019 to March 2020.
18 Defendants jointly own and operate a marijuana online retail business that sells and delivers marijuana
19 to customers. Claimant worked as a courier for Defendants. He delivered marijuana in the Sacramento,
20 Stockton, and Tracy area. Plaintiff regularly drove to Tracy and other towns to deliver marijuana to
21 Defendants' customers. Plaintiff and Aggrieved Employees typically worked six (6) to eight (8) hours
22 per day and, and between thirty (30) and forty (40) hours per week. Plaintiff and Aggrieved Employees
23 sometimes worked over eight (8) hours per day and over forty (40) hours per week.

24 20. Defendants failed to pay Plaintiff and Aggrieved Employees for all hours worked.
25 Plaintiff was underpaid due to the fact that Defendants failed to pay for all of his hours worked.
26 Defendants rounded any work time and this negatively impacted Plaintiff and Aggrieved Employees. In
27 addition, the delivery cars were parked about one (1) mile from the work site. After clocking in, Plaintiff
28 and Aggrieved Employees would drive their own cars to pick up the delivery cars. Sometimes, prior to

1 clocking in, some Aggrieved Employees would drive to the parking area to pick up the delivery cars.
2 These Aggrieved Employees were not paid for the time that they spent driving to the delivery car prior
3 to clocking in. Further, Defendants did not pay Plaintiff and Aggrieved Employees for all overtime
4 hours worked.

5 21. Moreover, Plaintiff and Aggrieved Employees missed many meal periods and took late
6 meal periods. Plaintiff missed many meal periods and took many meal periods after the fifth hour of
7 work because of Defendants' policies. Defendants' meal period policy is defective and contributed to
8 many late meal periods. Also, staff shortage and delivery schedules caused Plaintiff to miss and take
9 late meal periods. Due to the delivery schedule, Plaintiff sometimes had to eat while working. For
10 example, he would pick up food at a gas station while putting gas on his delivery vehicle. Defendants
11 called Plaintiff on his phone if Defendants noticed through their monitoring application or GPS device
12 that Plaintiff stopped at a customer's site or somewhere longer than usual. Defendants put pressure on
13 Plaintiff and Aggrieved Employees to work as fast as possible. Such policies also resulted in many
14 missed rest breaks for Plaintiff and Aggrieved Employees. Defendants' policies discouraged rest breaks
15 and penalized Plaintiff and Aggrieved Employees for taking their rest breaks. For example, on one
16 occasion, Plaintiff was falling asleep while driving. As a result, he pulled over to get a coffee and to
17 take a rest break. However, Defendants were notified from the monitoring device that Plaintiff had
18 stopped his car at a drive through. As a result, Defendants called Plaintiff and told him that he would be
19 written up for taking a rest break and stopping at a drive through.

20 22. Further, Defendants did not reimburse Plaintiff and Aggrieved Employees for using their
21 cell phones for work purposes. Plaintiff and Aggrieved Employees used their cell phones to talk to the
22 dispatcher, for directions, and for delivery routes when their work cell phones had problems or were not
23 charged. Plaintiff and Aggrieved Employees would drive their own cars after clocking in to pick up the
24 delivery cars. However, Defendants did not reimburse Plaintiff and Aggrieved Employees for using
25 their own cars for work purposes, such as picking up delivery cars that were parked one (1) mile away
26 from the work location.

27 23. Additionally, Defendants failed to authorize Plaintiff and Aggrieved Employees to take
28 their sick leave. Defendants did not tell Plaintiff how many sick days he was entitled to. In fact, when

1 he was hired, Defendants told him that he does not get any sick time. Moreover, Defendants marked
2 him as having an unexcused absence even when Plaintiff had a doctor's note excusing him from work.
3 Defendants discouraged Plaintiff and Aggrieved Employees from taking sick days. Defendants told
4 Plaintiff and Aggrieved Employees that taking sick days would negatively affect their attendance record.
5 At times, Plaintiff and Aggrieved Employees reported to work even when they were sick.

6 24. As a result of Defendants' rounding policy, failure to pay minimum wages, failure to pay
7 overtime wages, failure to pay reimbursement expenses, and failure to pay meal and rest period
8 premium, Defendants failed to provide all final wages owed to Plaintiff and Aggrieved Employees
9 within twenty-four (24) hours of their termination or seventy-two (72) hours of their resignation. In
10 addition, Defendants failed to keep accurate time records and failed to provide Plaintiff and Aggrieved
11 Employees with accurate wage statements. The wage statements Defendants provided to Plaintiff and
12 Aggrieved Employees did not accurately state their total regular hours worked, gross wages and net
13 wages, all deductions made, and the full address of the legal entity that is the employer. The address in
14 Plaintiff's paystubs does not state the city where the employer legal entity is located. Consequently, the
15 wage statements were defective.

16 25. At all times during Plaintiff's and Aggrieved Employees' employment relationship with
17 Defendants, JUSTIN JACINTO, CHRIS THAO, and JAVIER HERNANDEZ were Defendants' co-
18 owners. As a result, all had authority and control over Plaintiff's and Aggrieved Employees' hours
19 worked, wages, job duties, and other terms and conditions of employment. All Defendants
20 demonstrated control over Plaintiff's wages earned and job duties. It is Plaintiff's understanding that
21 each and all of them had the authority to hire and/or fire employees of Defendants. JUSTIN JACINTO,
22 CHRIS THAO, and JAVIER HERNANDEZ are and/or were owners, officers, directors, and
23 shareholders of Defendants. They developed, maintained, implemented, and caused the unlawful wage
24 and hour practices described herein to occur.

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CAUSES OF ACTION

FIRST CAUSE OF ACTION
FAILURE TO PAY OVERTIME WAGES
(As to all Defendants)

26. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 25 as though fully set forth herein.

27. During the period Plaintiff was employed by Defendants, Defendants were required to compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 7, section (3)(A); Cal. Lab. Code §§ 510, 1194.*

28. Plaintiff and Aggrieved Employees worked in excess of eight (8) hours per day and/or forty (40) hours per week on several occasions while employed by Defendants. However, Defendants failed to compensate Plaintiff and Aggrieved Employees for all overtime hours worked at the regular rate of pay.

29. Plaintiff and Aggrieved Employees were not exempt from overtime protections under the California Wage Orders and Labor Code.

30. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(As to all Defendants)

31. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 30 as though fully set forth herein.

32. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff with at least California's applicable minimum for every hour worked. *See MW-Order 2019; IWC Wage Order, No. 7, section 4(A); Cal. Lab. Code § 1194.*

33. Plaintiff and Aggrieved Employees were not exempt to the State's Minimum Wage Order. Defendants were aware of their obligation to pay the minimum wage for each hour worked but

1 failed to do so. Indeed, Defendants had knowledge that Plaintiff did not get paid for all hours worked
2 because Defendants had knowledge of their rounding policy that affected Plaintiff negatively and of
3 Plaintiff's whereabouts through their GPS device that monitored Plaintiff's delivery vehicle at all times.

4 34. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the
5 section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth
6 here in full.

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8 **THIRD CAUSE OF ACTION**
MEAL PERIOD VIOLATIONS
(As to all Defendants)

9 35. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 34 as though fully
10 set forth herein.

11 36. An employer must provide an employee a meal period in accordance with the
12 applicable Wage Order, and California Labor Code sections 226.7 and 512.

13 37. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 7, section
14 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30)
15 minutes for each work period of more than five (5) hours.

16 38. California Labor Code section 512 and Wage Order No. 7 section 11(B) further
17 provide that employers may not employ employees for a work period for more than ten (10) hours
18 per day without providing the employee with a second meal period of at least thirty (30) minutes.
19 However, if the total hours worked is no more than twelve (12) hours, the second meal period may
20 be waived so long as there was no waiver as to the first meal period. Employees are entitled to one
21 (1) hour of pay at their regular rate of compensation for each meal period not provided.

22 39. Defendants employed Plaintiff and Aggrieved Employees for periods of more than
23 five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period
24 of at least thirty (30) minutes when Plaintiff worked more than ten (10) hours in a day. Defendants
25 also failed to allow Plaintiff and Aggrieved Employees to take their first meal period before the
26 completion of their fifth hour of work and failed to allow Plaintiff to take their second meal period
27 before the completion of their tenth hour of work. Plaintiff did not waive their rights to all meal
28 periods throughout their employment.

40. Defendants further failed to pay Plaintiff and Aggrieved Employees the applicable meal period premiums for any such missed meal periods.

41. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

42. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 41 as though fully set forth herein.

43. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

44. California Labor Code section 226.7 and Wage Order No. 7, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

45. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and Aggrieved Employees to take paid rest periods of at least ten (10) minutes for each work period that they worked more than four (4) hours or a major fraction thereof.

46. Defendants further failed to pay Plaintiff and Aggrieved Employees the applicable rest period premiums for any such missed rest periods.

47. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FIFTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(As to all Defendants)

48. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 47 as though fully set forth herein.

49. Pursuant to California Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

50. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an itemized statement or failed to provide an accurate and complete itemized statement showing the requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime and double time hours worked and corresponding rates of pay, and gross and net wages earned. The paystubs also did not accurately itemize Plaintiff's total hours worked due to Defendants' rounding policy and other policies stated above that resulted in off-the-clock work. Plaintiff was not able to promptly and easily determine his total hours worked from their paystubs alone. Additionally, Plaintiff suffered confusion over whether they received all wages owed and were prevented from effectively challenging information on their wage statements.

51. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(As to all Defendants)

52. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 51 as though fully set forth herein.

1 53. An employer must pay an employee who is terminated all unpaid wages immediately
2 upon termination. *See* Cal. Lab. Code § 201.

3 54. An employer must pay an employee who resigns all unpaid wages within seventy-two
4 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

5 55. Plaintiff and Aggrieved Employees did not receive all wages, including minimum and
6 overtime wages, meal and rest period premiums, or all sick leave pay owed at his termination or within
7 the required time after their separation from employment.

8 56. An employer who willfully fails to pay an employee wages in accordance with California
9 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
10 days. *See* Cal. Lab. Code § 203.

11 57. Defendants knew of their obligation to pay Plaintiff's his final wages when their
12 employment terminated. Indeed, Defendants had knowledge that Plaintiff did not get paid for all hours
13 worked because Defendants had knowledge of their rounding policy that affected Plaintiff negatively
14 and of Plaintiff's whereabouts through their GPS device that monitored Plaintiff's delivery vehicle at all
15 times. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the time of
16 separation, yet Defendants still refused to pay the remaining wages owed.

17 58. As a proximate result of the Defendants' conduct, Plaintiff has been damaged and
18 deprived of wages and thereby seek the daily rate of pay multiplied by thirty (30) days for Defendants'
19 failure to pay all wages due.

20 **SEVENTH CAUSE OF ACTION**
21 **FAILURE TO REIMBURSE EXPENSES**
22 **(As to all Defendants)**

23 59. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 58 as though fully
24 set forth herein.

25 60. California Labor Code section 2802(a) states that "An employer shall indemnify his or
26 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
27 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
28 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
unlawful."

61. Defendants required Plaintiff and Aggrieved Employees to use their personal phone when his work phone had problems or was out of battery in order to communicate with dispatcher for delivery routes and directions to customers' homes. Defendants also required Plaintiff and Aggrieved Employees to use their vehicles to pick up Defendants' delivery vehicles but failed to reimburse them for such use.

62. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

EIGHTH CAUSE OF ACTION
FAILURE TO KEEP ACCURATE TIME RECORDS
(As to all Defendants)

63. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 62 as though fully set forth herein.

64. California Labor Code section 1174(d) provides that employers must keep “payroll records showing the hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years.”

65. California Industrial Wage Order No. 7, section (7)(A) further requires employers to “keep accurate information with respect to each employee including the following:

(3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals . . . shall also be recorded.

(5) Total hours worked in the payroll period and applicable rates of pay.

66. Throughout Plaintiff's and Aggrieved Employees employment with Defendants, Defendants did not keep accurate information regarding all hours worked or meal periods taken. As elaborated above, Defendants had a practice of not keeping track of all hours that Plaintiff and the Aggrieved Employees worked.

67. Plaintiff and Aggrieved Employees were not exempt under the Wage Order.

68. As a direct and proximate result of Defendants' conduct, California Labor Code section 1174 has been violated throughout the duration of Plaintiff's employment. Plaintiff is, therefore, entitled to, and seeks, penalties pursuant to California Labor Code section 1174.5.

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NINTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to Defendants TOO INFINITY MANAGEMENT, LLC, TOO INFINITY MANAGEMENT, LLC DBA HUMBLE ROOT, HUMBLE ROOT INTERNATIONAL, INC., HUMBLE ROOT WORLDWIDE, INC., and DOES 1 to 100)

69. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 68 as though fully set forth herein.

70. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See* California Business and Professions ("B&P") Code § 17200.

71. Plaintiff were not paid all wages owed, including minimum and overtime wages and meal and rest period premiums, paid sick leave, or reimbursed for business expenses, during his employment or any time thereafter.

72. Plaintiff further alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

73. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff is entitled to restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code sections 17203, 17208, violations of California Labor Code sections 226.7, 510, 512, and 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

TENTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

74. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 73 as though fully set forth herein.

75. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated current and former employees:

- Violation of Labor Code sections 1194, 1197.1, and Wage Order No. 7, § 4 (Failure to Pay Minimum Wages);
- Violation of Labor Code section 226.7, 512 and Wage Order No. 7, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof);
- Violation of Labor Code sections 201-203, 256 (Failure to Pay Final Wages);
- Violation of Labor Code sections 226, 226.3 (Failure to Provide Accurate Wage Statements);
- Violation of Labor Code section 558 and 558.1 (Violation of Provision Regulating Hours and Days of Work in Any Industrial Welfare Commission Order);
- Violation of Labor Code sections 226.3 and 1174 (Failure to Maintain Accurate Time Records);
- Violation of Labor Code sections 510 and 1194 Wage Order No. 7, § 3 (Failure to Pay Overtime Wages);
- Violation of Labor Code section 226.7, 512 and Wage Order No. 7, §§ 12(A) and 12(B) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof);
- Violation of Labor Code § 2802 (Failure to Pay Reimbursement for Expenses)
- Violation of Labor Code sections 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave);

76. Plaintiff has received authorization, based on the LWDA's failure to send notice of its intent to pursue Plaintiff's claims and based on Defendants' failure to cure Plaintiff's claims, to act on behalf of the Labor Commissioner to assess civil penalties against Defendants.

77. Plaintiff seeks civil penalties against Defendants pursuant to Labor Code section 2699(f)(2) to the extent there is no enumerated penalty provision for the specific sections cited above.

78. Plaintiff seeks these civil penalties on behalf of herself and all other former and current employees from Defendants pursuant to Labor Code sections 2699(a) and 2699.3.

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DAMAGES

WHEREFORE Plaintiff requests) relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
5. As to the Fourth Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
6. As to the Fifth Cause of Action:
 - a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);

b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);

7. As to the Sixth Cause of Action:

a. An employer who willfully fails to pay an employee wages in accordance with Labor Code §§ 201 and/or 202 must pay the employee's daily rate of pay as a waiting time penalty of up to thirty (30). See Labor Code § 203;

8. As to the Seventh Cause of Action:

a. An amount to be proven at trial;

b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);

9. As to the Eighth Cause of Action:

a. Penalties as provided for in Labor Code section 1174.5;

10. As to the Tenth Cause of Action:

a. For civil penalties as provided for in the Labor Code for each enumerated violation;

b. For those Labor Code sections, the violation of which there is no civil penalty provided, the default penalty provided in Labor Code section 2699(f): for any initial violation, one hundred dollars (\$100) for each aggrieved employee per pay period; For any subsequent violation, two hundred dollars (\$200) for each aggrieved employee per pay period;

c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;

d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

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1 10. For such other and further relief as this Court may deem just and proper,
2 including, but not limited to:

- 3 a. Wages as proved at trial;
4 b. Injunctive and Declaratory relief;
5 c. Attorney's fees and costs as provided for by law; and
6 d. Interest.

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9 Dated: September 11, 2020

Shimoda Law Corp.

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11 By: 

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