

1 **BIBIYAN LAW GROUP, P.C.**
David D. Bibiyan (Cal. Bar No. 287811)
2 *david@tomorrowlaw.com*
Jeffrey D. Klein (Cal. Bar. No. 297296)
3 *jeff@tomorrowlaw.com*
Diego Aviles (Cal. Bar No. 315533)
4 *diego@tomorrowlaw.com*
8484 Wilshire Boulevard, Suite 500
5 Beverly Hills, California 90211
Tel: (310) 438-5555 Fax: (310) 300-1705
6

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Superior Court of California
County of Los Angeles

MAR 15 2021

Sherri R. Carter, Executive Officer/Clerk of Court

7 Attorneys for Plaintiff, ALFRED GONZALES,
on behalf of himself and all others similarly situated and aggrieved

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10

11 ALFRED GONZALES, on behalf of himself
and all others similarly situated and aggrieved,
12

13 Plaintiff,
14

15 v.

16 EL MONTE RENTS, INC., a California
corporation doing business as EL MONTE RV;
TOM WIGGINTON, an individual; and DOES
17 1 through 100, inclusive,
18

19 Defendants.
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CASE NO.: **21STCV10209**

CLASS ACTION COMPLAINT FOR:

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO INDEMNIFY;
8. VIOLATION OF LABOR CODE § 227.3;
9. UNFAIR COMPETITION;
10. CIVIL PENALTIES UNDER LABOR CODE § 210;
11. CIVIL PENALTIES UNDER LABOR CODE § 226.3;
12. CIVIL PENALTIES UNDER LABOR CODE § 558;
13. CIVIL PENALTIES UNDER LABOR CODE § 1197.1; and
14. CIVIL PENALTIES UNDER LABOR CODE § 2699.

27 **DEMAND FOR JURY TRIAL**

[Amount in Controversy Exceeds \$25,000.00]
28

COMES NOW plaintiff ALFRED GONZALES ("Plaintiff"), on behalf of Plaintiff and all others similarly situated, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against EL MONTE RENTS, INC., a California corporation doing business as EL MONTE RV, and any of its respective subsidiaries or affiliated companies within the State of California ("EL MONTE") and TOM WIGGINTON, an individual ("MR. WIGGINTON" and, collectively with EL MONTE and DOES 1 through 100, as further defined below, "Defendants") on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants ("Class Members").

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against Defendants as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein.

PARTIES

A. Plaintiff

3. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, groundskeeping and maintaining the buildings and grounds, including plumbing and taking out the trash. Plaintiff is informed and believes, and based thereon alleges that Plaintiff worked for Defendants from approximately February of 2019 through approximately March of 2020.

B. Defendants

4. Plaintiff is informed and believes and based thereon alleges that defendant EL MONTE is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of Los Angeles, State

1 of California.

2 5. Plaintiff is informed and believes and based thereon alleges that defendant MR.
3 WIGGINTON is, and at all times relevant hereto was, an individual residing in California, as well
4 as Vice President for EL MONTE, and DOES 1 through 100, as further defined below. Plaintiff is
5 further informed and believes and based thereon alleges that MR. WIGGINTON violated, or caused
6 to be violated, the above-referenced and below-referenced Labor Code provisions in violation of
7 Labor Code section 558.1.

8 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
9 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
10 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
11 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
12 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
13 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
14 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
15 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
16 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
17 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
18 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
19 include EL MONTE, MR. WIGGINTON, and any of their parent, subsidiary, or affiliated
20 companies within the State of California, as well as DOES 1 through 100 identified herein.

21 **JOINT LIABILITY ALLEGATIONS**

22 7. Plaintiff is informed and believes and based thereon alleges that all the times
23 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
24 representative, joint venture or co-conspirator of each of the other defendants, either actually or
25 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
26 employment, joint venture, and conspiracy.

27 8. All of the acts and conduct described herein of each and every corporate defendant
28 was duly authorized, ordered, and directed by the respective and collective defendant corporate

1 employers, and the officers and management-level employees of said corporate employers. In
2 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
3 their said employees, agents, and representatives, and each of them; and upon completion of the
4 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
5 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
6 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
7 aforementioned corporate employees, agents and representatives.

8 9. Plaintiff is further informed and believes and based thereon alleges that MR.
9 WIGGINTON violated, or caused to be violated, the above-referenced and below-referenced Labor
10 Code provisions in violation of Labor Code section 558.1.

11 10. Plaintiff is informed and believes, and based thereon alleges, that there exists such a
12 unity of interest and ownership between Defendants, and each of them, that their individuality and
13 separateness have ceased to exist.

14 11. Plaintiff is informed and believes, and based thereon alleges that despite the
15 formation of the purported corporate existence of EL MONTE, and DOES 1 through 50, inclusive
16 (the "Alter Ego Defendants"), they, and each of them, are one and the same with MR. WIGGINTON
17 and DOES 51 through 100 ("Individual Defendants"), and each of them, due to, but not limited to,
18 the following reasons:

19 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
20 Defendants who personally committed the wrongful and illegal acts and violated the
21 laws as set forth in this Complaint, and who has hidden and currently hide behind the
22 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some
23 other wrongful or inequitable purpose;

24 B. The Individual Defendants derive actual and significant monetary benefits by and
25 through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego
26 Defendants as the funding source for the Individual Defendants' own personal
27 expenditures;

28 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants

1 and the Alter Ego Defendants, while really one and the same, were segregated to
2 appear as though separate and distinct for purposes of perpetrating a fraud,
3 circumventing a statute, or accomplishing some other wrongful or inequitable
4 purpose;

5 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
6 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
7 mentioned herein were, so mixed and intermingled that the same cannot reasonably
8 be segregated, and the same are inextricable confusion. The Alter Ego Defendants
9 are, and at all relevant times mentioned herein were, used by the Individual
10 Defendants as mere shells and conduits for the conduct of certain of their, and each
11 of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
12 herein were, the alter egos of the Individual Defendants;

13 E. The recognition of the separate existence of the Individual Defendants and the Alter
14 Ego Defendants would promote injustice insofar that it would permit defendants to
15 insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor
16 Code, and other statutory violations. The corporate existence of these defendants
17 should thus be disregarded in equity and for the ends of justice because such
18 disregard is necessary to avoid fraud and injustice to Plaintiff herein;

19 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
20 Defendants (and vice versa), and the fiction of their separate corporate existence
21 must be disregarded.

22 12. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
23 thereon alleges that Defendants, and each of them, are joint employers.

24 JURISDICTION

25 13. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
26 of Civil Procedure section 410.10.

27 14. Venue is proper in Los Angeles County, California pursuant to Code of Civil
28 Procedure sections 392, et seq. because, among other things, Los Angeles County is where the

1 causes of action complained of herein arose; the county in which the employment relationship
2 began; the county in which performance of the employment contract, or part of it, between Plaintiff
3 and Defendants was due to be performed; the county in which the employment contract, or part of
4 it, between Plaintiff and Defendants was actually performed; and the county in which Defendants,
5 or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff
6 and Class Members in Los Angeles County, and because Defendants employ numerous Class
7 Members in Los Angeles County.

8 15. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
9 Defendants during the applicable statutory period and suffered one or more of the Labor Code
10 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
11 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
12 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
13 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
14 employees of Defendants during the Civil Penalty Period.

15 16. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
16 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
17 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
18 PAGA allegations described herein is not required.

19 17. During the period beginning one (1) year preceding the provision of notice to the
20 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
21 Defendants violated, inter alia, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7,
22 , 246, et seq., 404, 432, 510, 512, 558, 1102.5, 1174, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699,
23 2802, and 2810.5, among others.

24 18. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
25 such as Plaintiff, to bring a civil action to recover civil penalties pursuant to the procedures specified
26 in Labor Code section 2699.3.

27 19. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
28 section 2699.3. On or around July 24, 2020, Plaintiff gave written notice to the Labor and

1 Workforce Development Agency ("LWDA") and to Defendants of the specified provisions of the
2 Labor Code alleged to have been violated by it. The LWDA did not provide notice of its intention
3 to investigate Defendants' alleged violations within sixty-five (65) calendar days of the July 24,
4 2020 postmarked date of the herein-described notice sent by Plaintiff to the LWDA and Defendant.

5 20. The amount of damages sought by Plaintiff herein exceeds the minimum
6 jurisdictional limit of this Court: \$25,000.00.

7 **FACTUAL BACKGROUND**

8 21. For at least four (4) years prior to the filing of this Action and continuing to the
9 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and other non-exempt
10 employees in the State of California in violation of California state wage and hour laws as a result
11 of, without limitation, Defendants, on some occasions: paying overtime hours at lower rates of pay
12 than authorized by law and at times, requiring that some non-exempt employees clock out but
13 continue working to the detriment of Plaintiff and similarly situated employees. This practice has
14 resulted, for the occasional pay periods where employees did work over eight (8) hours per day,
15 over forty (40) hours per week, or over eight (8) hours on the seventh consecutive day, a failure to
16 pay employees at the accurate overtime rate(s) of pay, as required by California state wage and hour
17 laws.

18 22. For at least four (4) years prior to the filing of this Action and continuing to the
19 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and other non-exempt
20 employees in the State of California in violation of California state wage and hour laws as a result
21 of, among other things, occasionally requiring that employees clock out but continue working,
22 resulting in unpaid regular wages.

23 23. For at least four (4) years prior to the filing of this Action and continuing to the
24 present, Defendants have, on occasion, failed to provide Plaintiff and all other similarly situated
25 employees or former employees within the State of California a thirty (30) minute, uninterrupted,
26 and timely meal period for days on which the employees worked more than five (5) hours in a
27 workday; a second thirty (30) minute, uninterrupted, and timely meal period for days on which
28 employees worked in excess of ten (10) hours in a workday; and/or compensation for such

1 unprovided meal periods as required by California wage and hour laws.

2 24. For at least four (4) years prior to the filing of this Action and continuing to the
3 present, Defendants have, on occasion, failed to provide Plaintiff and all other similarly situated
4 employees or former employees within the State of California paid, timely, and uninterrupted rest
5 periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and/or
6 compensation for such unprovided rest periods as required by California wage and hour laws.

7 25. For at least three (3) years prior to the filing of this action and continuing to the
8 present, Defendants have, at times, failed to pay Plaintiff and all other similarly situated employees
9 or former employees within the State of California, or some of them, the full amount of their wages
10 owed to them upon termination and/or resignation as required by Labor Code sections 201 and 202,
11 including for, without limitation, failing to pay overtime wages, minimum wages, premium wages,
12 and vacation pay pursuant to Labor Code section 227.3.

13 26. For at least three (3) years prior to the filing of this Action and continuing to the
14 present, Defendants have, at times, failed to pay Plaintiff and all other similarly situated employees
15 the full amount of their wages owed to them upon termination and/or resignation as required by
16 Labor Code sections 201 and 202 as a result of their occasional failure to pay overtime and minimum
17 wages, at times, as herein mentioned.

18 27. For at least one (1) year prior to the filing of this Action and continuing to the present,
19 Defendants have, at times, due to the occasional wage-and-hour violations complained of herein,
20 occasionally failed to furnish Plaintiff and all other similarly situated employees with accurate,
21 itemized wage statements that accurately reflect, among other things, gross wages earned; total
22 hours worked; net wages earned; the name and address of the legal entity that is the employer; and
23 all applicable hourly rates in effect during the pay period and the corresponding number of hours
24 worked at each hourly rate and in those instances, as a result thereof, have failed to furnish
25 employees with an accurate calculation of net and gross wages earned, and net and gross wages
26 paid.

27 28. For at least three (3) years prior to the filing of this Action and continuing to the
28 present, Defendants have, at times and for only those non-exempt employees who were required to

1 wear mandatory work uniforms during their employment, failed to indemnify Plaintiff and other
2 similarly situated employees for costs incurred in the separate laundering of mandatory work
3 uniforms, in violation of, among other authorities, Labor Code section 2802, and other statutory and
4 common law offenses.

5 29. For at least four (4) years prior to the filing of this action and continuing to the
6 present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated
7 employees or former employees within the State of California with compensation at their final rate
8 of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

9 30. Plaintiff, on behalf of himself and all other similarly situated employees, brings this
10 Action pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7,
11 227.3, 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8,
12 section 11050, seeking, *inter alia*, overtime wages, minimum wages, premium wages for missed
13 meal and rest periods, failure to indemnify work-related expenses, failing to pay vested vacation
14 time at the proper rate of pay penalties, and reasonable attorneys' fees and costs.

15 31. Plaintiff, on behalf of himself and all other similarly situated employees, pursuant to
16 California Business and Professions Code sections 17200 through 17208, also seeks injunction(s)
17 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
18 appropriate and effective means to prevent further violations, as well as all monies owed but
19 withheld and retained by Defendants to which Plaintiff and members of the Class are entitled.

20 **CLASS ACTION ALLEGATIONS**

21 32. Plaintiff brings this Action on behalf of himself and all others similarly situated, as
22 a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent six (6)
23 Classes composed of and defined as follows:

24 **Non-Exempt Class**

25 All current and former non-exempt employees of Defendants within the State of
26 California at any time commencing four (4) years preceding the filing of Plaintiff's
27 complaint up until the time that notice of the class action is provided to the class who,
28 on occasions, were not paid all overtime and/or minimum wages due at the amounts due
for the times worked (collectively referred to as "Non-Exempt Class").

///

1 **Meal Period Class**

2
3 All current and former non-exempt employees of Defendants within the State of
4 California at any time commencing four (4) years preceding the filing of Plaintiff's
5 complaint up until the time that notice of the class action is provided to the class who
6 worked shifts of five (5) hours or more that were, at times, not provided with complete,
7 timely and uninterrupted 30-minute meal periods every five (5) hours of work
8 (collectively referred to as "Meal Period Class").

9 **Rest Period Class**

10 All current and former non-exempt employees of Defendants within the State of
11 California at any time commencing four (4) years preceding the filing of Plaintiff's
12 complaint up until the time that notice of the class action is provided to the class, who
13 worked shifts of three and-a-half (3 ½) hours or more who did not receive timely,
14 uninterrupted, complete and paid rest periods of ten (10) minutes or more every four (4)
15 hours worked, or major fraction thereof (collectively referred to as the "Rest Period
16 Class").

17 **Late Pay Class**

18 All former non-exempt employees of Defendants within the State of California at any
19 time commencing three (3) years preceding the filing of Plaintiff's complaint up until
20 the time that notice of the class action is provided to the class, who did not receive all
21 their due wages upon termination and/or resignation of their employment due to a failure
22 to provide overtime or minimum wages for all hours they were engaged, suffered or
23 permitted to work for Defendants the proper overtime or regular rate of pay (collectively
24 referred to as "Late Pay Class").

25 **Wage Statement Class**

26 All current and former non-exempt employees of Defendants within the State of
27 California to whom, at any time commencing one (1) year preceding the filing of
28 Plaintiff's complaint up until the time that notice of the class action is provided to the
29 class, were provided with wage statements that accurately set out the gross wages earned;
30 total hours worked; net wages earned; the name and address of the legal entity that is the
31 employer; and all applicable hourly rates in effect during the pay period and the
32 corresponding number of hours worked at each hourly rate (collectively referred to as
33 "Wage Statement Class").

34 **Expense Class**

35 All current and former employees of Defendants within the State of California at any
36 time commencing three (3) years preceding the filing of Plaintiff's complaint up until
37 the time that notice of the class action is provided to the class who were required to wear
38 mandatory work uniforms during their employment, but were not reimbursed for the
39 separate laundering of the mandatory work uniforms (collectively referred to as the

1 “Expense Class”).

2 **Vacation Pay Class**

3 All current and former employees of Defendants within the State of California at any
4 time commencing three (3) years preceding the filing of Plaintiff’s complaint up until
5 the time that notice of the class action is provided to the class who did not receive the
6 full amount of their wages owed to them upon termination and/or resignation of their
7 employment, including for, without limitation, failing to pay overtime wages, minimum
 wages, premium wages, and vacation pay (collectively referred to as “Vacation Pay
 Class”).

8 33. Plaintiff reserves the right under California Rules of Court, rule 3.765, subdivision
9 (b) to amend or modify the class description with greater specificity or further division into
10 subclasses or limitation to particular issues.

11 34. This Action has been brought and may properly be maintained as a class action under
12 the provisions of Code of Civil Procedure section 382 because there is a well-defined community
13 of interest in the litigation and the proposed classes are easily ascertainable.

14 A. **Numerosity**

15 35. The potential members of the Class as defined are so numerous that joinder of all the
16 members of the Class is impracticable. While the precise number of Class Members has not been
17 determined yet, Plaintiff is informed and believes that there are at least fifty (50) Class Members
18 employed by Defendants within the State of California.

19 36. Accounting for employee turnover during the relevant periods necessarily increases
20 this number. Plaintiff alleges Defendants’ employment records would provide information as to the
21 number and location of all Class Members. Joinder of all members of the proposed Class is not
22 practicable.

23 B. **Commonality**

24 37. There are questions of law and fact common to Class Members. These common
25 questions include, but are not limited to:

- 26 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay non-
27 exempt employees at the proper overtime rate of pay, including, without limitation,
28 by paying overtime pay at the regular rate of pay?

- 1 B. Did Defendants violate Labor Code section 512 by not providing Class Members
2 with compliant meal periods?
- 3 C. Did Defendants violate Labor Code section 226.7 by not providing Class Members
4 with additional wages for non-compliant meal periods?
- 5 D. Did Defendants violate the applicable Wage Order(s) by not providing Class
6 Members with compliant rest periods?
- 7 E. Did Defendants violate Labor Code section 226.7 by not providing Class Members
8 with additional wages for non-compliant rest periods?
- 9 F. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
10 Members upon termination or resignation all wages earned?
- 11 G. Are Defendants liable to Class Members for waiting time penalties and/or penalty
12 wages under Labor Code section 203?
- 13 H. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
14 Class Members with accurate wage statements?
- 15 I. Were Class Members reimbursed for separate laundry of their mandatory work
16 uniforms?
- 17 J. Did Defendants violate Labor Code section 227.3 by not providing Class Members
18 with compensation at their final rate of pay for vested paid vacation time?
- 19 K. Did Defendants violate the Unfair Competition Law, Business and Professions Code
20 section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 21 L. Are Class Members entitled to restitution of penalty wages under Business and
22 Professions Code section 17203?
- 23 M. Are Class Members entitled to attorneys' fees?
- 24 N. Are Class Members entitled to costs?
- 25 O. Are Class Members entitled to interest?

26 **C. Typicality**

27 38. The claims of Plaintiff herein alleged are typical of those claims which could be
28 alleged by any Class Members, and the relief sought is typical of the relief which would be sought

1 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
2 damages arising out of and caused by Defendants' common course of conduct in violation of laws
3 and regulations that have the force and effect of law and statutes as alleged herein.

4 **D. Adequacy of Representation**

5 39. Plaintiff will fairly and adequately represent and protect the interest of Class
6 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
7 hour class actions.

8 **E. Superiority of Class Action**

9 40. A class action is superior to other available means for the fair and efficient
10 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
11 questions of law and fact common to the Classes predominate over any questions affecting only
12 individual members of each Class. Each member of each Class has been damaged and is entitled to
13 recovery by reason of Defendants' illegal policy and/or practice of failing to pay overtime and
14 minimum wages; failing to provide meal and rest breaks or compensation in lieu thereof; failing to
15 provide accurate itemized wage statements; failing to pay all wages due upon termination and/or
16 resignation; and failing to reimburse for work expenses.

17 41. Class action treatment will allow Class Members to litigate their claims in a manner
18 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
19 any difficulties that are likely to be encountered in the management of this action that would
20 preclude its maintenance as a class action.

21 **FIRST CAUSE OF ACTION**

22 **(Failure to Pay Overtime Wages – Against All Defendants)**

23 42. Plaintiff realleges and incorporates by reference all of the allegations contained in
24 the preceding paragraphs of this Complaint as though fully set forth hereat.

25 43. At all times relevant to this Complaint, Labor Code section 510 was in effect and
26 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
27 one workday and any work in excess of forty hours in any one workweek and the first eight hours
28 on the seventh day of work in any one workweek shall be compensated at the rate of no less than

1 one and one-half times the regular rate of pay for an employee.”

2 44. At all times relevant to this Complaint, Labor Code section 510 further provided that
3 “[a]ny work in excess of twelve (12) hours in one day shall be compensated at the rate of no less
4 than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours
5 on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular
6 rate of pay of an employee.”

7 45. On occasions during the relevant time period mentioned herein, Plaintiff and the
8 Non-Exempt Class worked for Defendants during shifts that consisted of more than eight (8) hours
9 in a workday, twelve (12) hours in a workday, more than forty (40) hours in a workweek, and/or
10 seven (7) consecutive workdays in a workweek, without being paid overtime wages for all hours
11 worked as a result of, without limitation, at times, Defendants paying overtime hours at the improper
12 rates of pay (due to, among other things, paying overtime hours at the regular rates of pay), and
13 failing to pay for all hours worked by, on occasion, engaging, suffering, or permitting employees to
14 work off the clock (including by, at times, requiring that employees clock out but continue working).

15 46. Accordingly, because Plaintiff and the Non-Exempt Class at times worked in excess
16 of eight (8) or twelve (12) hours per workday, forty (40) hours per workweek, and/or seven (7)
17 straight workdays per workweek without properly compensating for overtime wages, as described
18 above, Defendants willfully violated the provisions of the Labor Code, among others, sections 510,
19 1194, and 1197, as well as applicable IWC Wage Orders and California law.

20 47. As a result of the unlawful acts of Defendants, Plaintiff and the Non-Exempt Class
21 have been deprived of overtime wages in amounts to be determined at trial, and are entitled to
22 recovery of such amounts, plus interest and penalties thereon, attorneys’ fees and costs, pursuant to
23 Labor Code sections 1194 and 1199, Code of Civil Procedure sections 1021.5 and 1032, and Civil
24 Code section 3287.

25 **SECOND CAUSE OF ACTION**

26 **(Failure to Pay Minimum Wages – Against All Defendants)**

27 48. Plaintiff realleges and incorporates by reference all of the allegations contained in
28 the preceding paragraphs of this Complaint as though fully set forth hereat.

49. At all relevant times, Plaintiff and the members of the Non-Exempt Class were employees of Defendants covered by Labor Code section 1197 and applicable Wage Orders. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and the members of the Non-Exempt Employee Class were entitled to receive minimum wages for all hours worked or otherwise under Defendants' control.

50. Defendants failed to, on occasions, pay Plaintiff and members of the Non-Exempt Class minimum wages for all hours worked as a result of, including but not limited to, at times, Defendants failing to pay for all time worked, including, without limitation, engaging, suffering, or permitting employees to clock out but continue working.

51. As a result of Defendants' unlawful conduct, Plaintiff and members of the Non-Exempt Class have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked or otherwise under Defendants' control.

52. Pursuant to Labor Code section 1194 and 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and members of the Non-Exempt Employee Class are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees, and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

53. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth hereat.

54. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second timely meal period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.

55. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,

1 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
2 of compensation for each workday that the meal period is not provided.

3 56. Plaintiff and other members of the Meal Period Class were, on occasions during the
4 relevant time period, not provided with requisite uninterrupted meal periods as contemplated under
5 the law.

6 57. By their occasional failure to provide Plaintiff and members of the Meal Period Class
7 with the meal periods contemplated by Labor Code section 512, among other California authorities,
8 and failing to provide compensation for such non-compliant meal periods, as alleged above,
9 Defendants willfully violated the provisions of Labor Code section 512 and applicable Wage Orders.

10 58. As a result of Defendants' unlawful conduct, Plaintiff and the other members of the
11 Meal Period Class have suffered damages in an amount, subject to proof, to the extent they were not
12 paid additional pay owed for missed, untimely, interrupted and/or incomplete meal periods.

13 59. Plaintiff and the other members of the Meal Period Class are entitled to recover the
14 full amount of their unpaid additional pay for missed meal periods, in amounts to be determined at
15 trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys'
16 fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5
17 and 1032, and Civil Code section 3287.

18 **FOURTH CAUSE OF ACTION**

19 **(Failure to Provide Rest Periods – Against All Defendants)**

20 60. Plaintiff realleges and incorporates by reference all of the allegations contained in
21 the preceding paragraphs of this Complaint as though fully set forth hereat.

22 61. California law and applicable Wage Orders require that employers "authorize and
23 permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour
24 work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-
25 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
26 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
27 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
28 thirty (30) minutes of paid rest period.

62. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the timely meal period or rest period is not provided.

63. Plaintiff and other members of the Rest Period Class were, on occasion, not provided with requisite rest periods as contemplated under the law.

64. By their occasional failure to provide Plaintiff and other members of the Rest Period Class with the timely complete rest periods contemplated by California law, and failing to provide compensation for such non-compliant rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

65. As a result of Defendants' unlawful conduct, Plaintiff and the other members of the Rest Period Class have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed, untimely, interrupted and incomplete rest periods.

66. Pursuant to Labor Code section 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and members of the Rest Period Class are entitled to recover the full amount of their premium pay for unprovided rest periods, interest and penalties thereon, and costs of suit.

FIFTH CAUSE OF ACTION

(Failure to Pay All Wages Due Upon Termination – Against All Defendants)

67. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth hereat.

68. At all relevant times, Plaintiff and other members of the Late Pay Class were employees of Defendants covered by Labor Code sections 201 and 202.

69. Pursuant to Labor Code sections 201 and 202, Plaintiff and other members of the Late Pay Class were entitled upon termination to timely payment of all wages earned and unpaid prior to termination, including overtime and minimum wages. Discharged employees were entitled to payment of all wages earned and unpaid, including without limitation, overtime and minimum wages, prior to discharge immediately upon termination. Employees who resigned were entitled to

1 payment of all wages earned and unpaid, including, without limitation, overtime and minimum
2 wages, prior to resignation within 72 hours after giving notice of resignation or, if they gave 72
3 hours previous notice, they were entitled to payment of all wages earned and unpaid, including
4 overtime wages, at the time of resignation.

5 70. Plaintiff is informed and believes, and based thereon alleges, that Defendants, due to
6 the occasional failures to provide overtime and minimum wages mentioned above, failed to pay
7 Plaintiff and other members of the Late Pay Class all wages earned and unpaid, including overtime
8 wages and minimum wages prior to resignation or termination in accordance with Labor Code
9 sections 201 or 202.

10 71. Defendants' failure to pay Plaintiff and members of the Late Pay Class all wages
11 earned on occasions, as set forth above, has resulted in a failure to pay them all wages owed prior
12 to termination or resignation in accordance with Labor Code sections 201 and 202, which was
13 willful. Defendants had the ability to pay all wages earned by Plaintiff and other members of the
14 Late Pay Class at the time of termination or resignation in accordance with Labor Code sections 201
15 and 202, but intentionally adopted policies or practices that resulted in occasional failure to pay
16 overtime and minimum wages (as set forth herein), and thus were incompatible with the
17 requirements of Labor Code sections 201 and 202.

18 72. Pursuant to Labor Code section 203, Plaintiff and other members of the Late Pay
19 Class are entitled to waiting time penalties from the date their earned and unpaid wages were due,
20 upon termination or resignation, until paid, up to a maximum of thirty (30) days.

21 73. Pursuant to Labor Code sections 203, 218, 218.5, 218.6, Code of Civil Procedure
22 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and the other members of the Late
23 Pay Class are entitled to recover waiting time penalties under Labor Code section 203, reasonable
24 attorneys' fees on their unpaid wages, interest, and costs of suit.

25 **SIXTH CAUSE OF ACTION**

26 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

27 74. Plaintiff realleges and incorporates by reference all of the allegations contained in
28 the preceding paragraphs of this Complaint as though fully set forth hereat.

1 75. At all relevant times, Plaintiff and the other members of the Wage Statement Class
2 were employees of Defendants covered by Labor Code section 226.

3 76. Pursuant to Labor Code section 226, subdivision (a), and other state and local wage
4 laws, Plaintiff and the other members of the Wage Statement Class were entitled to receive, semi-
5 monthly or at the time of each payment of wages, an accurate itemized statement that accurately
6 reflects, among other things, gross wages earned; total hours worked; net wages earned; and all
7 applicable hourly rates in effect during the pay period and the corresponding number of hours
8 worked at each hourly rate.

9 77. Plaintiff is informed and believe, and based thereon alleges, that at all relevant times,
10 Defendants, at times, due to the failure to pay due wages for the reasons described herein, also, on
11 those occasions, failed to issue wage statements that accurately set out amounts due to, among other
12 things, intentionally failing to furnish employees with itemized wage statements that accurately
13 reflect, among other things, gross wages earned; total hours worked; net wages earned; the name
14 and address of the legal entity that is the employer; and all applicable hourly rates in effect during
15 the pay period and the corresponding number of hours worked at each hourly rate, and in those
16 instances, as a result thereof, have failed to furnish employees with an accurate calculation of net
17 and gross wages earned, and net and gross wages paid..

18 78. Thus, on those occasions, Defendants failed to provide Plaintiff and the other
19 members of the Wage Statement Class accurate itemized wage statements in accordance with Labor
20 Code section 226, subdivision (a).

21 79. Defendants' failure, on those occasions, to provide Plaintiff and other members of
22 the Wage Statement Class with accurate wage statements was knowing, intentional, and willful.
23 Defendants had the ability to provide Plaintiff and the other members of the Wage Statement Class
24 with accurate wage statements, but willfully provided wage statements that Defendants knew were
25 not accurate.

26 80. As a result of Defendants' unlawful conduct, Plaintiff and the other members of the
27 Wage Statement Class have suffered injury. The absence of accurate information on their wage
28 statements has delayed timely challenge to Defendants' unlawful pay practices; requires discovery

1 and mathematical computations to determine the amount of wages owed; causes difficulty and
2 expense in attempting to reconstruct time and pay records; and led to submission of inaccurate
3 information about wages and amounts deducted from wages to state and federal governmental
4 agencies;

5 81. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and other members of
6 the Wage Statement Class are entitled to recover \$50 for the initial pay period during the period in
7 which violation of Labor Code section 226 occurred and \$100 for each violation of Labor Code
8 section 226 in a subsequent pay period, not to exceed an aggregate \$4,000.00 per employee.

9 82. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
10 Procedure section 1032, Civil Code section 3287, Plaintiff and the other members of the Wage
11 Statement Class are entitled to recover the full amount of penalties due under Labor Code section
12 226, subdivision (e), reasonable attorneys' fees, and costs of suit.

13 **SEVENTH CAUSE OF ACTION**

14 **(Violation of Labor Code § 2802 – Against All Defendants)**

15 83. Plaintiff realleges and incorporates by reference all of the allegations contained in
16 the preceding paragraphs of this Complaint as though fully set forth hereat.

17 84. At all relevant times, Plaintiff and the other members of the Expense Class were
18 employees of Defendants covered by Labor Code section 2802.

19 85. California Labor Code section 2802, subdivision (a) provides that “an employer shall
20 indemnify his or her employee for all necessary expenditures or losses incurred by the employee in
21 direct consequence of the discharge of his or her duties . . .”

22 86. At all relevant times, Plaintiff and other members of the Expense Class were required
23 to separately launder mandatory work uniforms.

24 87. At all relevant times, Defendants failed and refused, and still fail and refuse, to
25 reimburse Plaintiff and other members of the Expense Class for their costs incurred in separately
26 laundering of their mandatory work uniforms from their other clothing.

27 88. As a result of Defendants' unlawful conduct, Plaintiff and the other members of the
28 Expense Class have suffered damages in an amount subject to proof, to the extent they were not

1 reimbursed for the separate laundering of their mandatory work uniforms.

2 89. Pursuant to Labor Code section 2802, Code of Civil Procedure section 1032, and
3 Civil Code section 3287, Plaintiff and other members of the Expense Class are entitled to recover
4 reimbursement for laundering their mandatory work uniforms separately from their other clothes,
5 interest and penalties thereon, reasonable attorneys' fees, costs of suit.

6 **EIGHTH CAUSE OF ACTION**

7 **(Violation of Labor Code § 227.3 – Against All Defendants)**

8 90. Plaintiff realleges and incorporates by reference all of the allegations contained in
9 the preceding paragraphs of this Complaint as though fully set forth hereat.

10 91. According to Labor Code section 227.3, whenever a contract of employment or
11 employer policy provides for paid vacations, and an employee is terminated without having taken
12 off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in
13 accordance with such contract of employment or employer policy respecting eligibility or time
14 served.

15 92. Plaintiff is informed and believes, and based thereon alleges that, at all times relevant
16 hereto, Defendants promulgated and maintained a uniform policy providing for paid vacations, and
17 that Plaintiff's employment contract with Defendants included paid vacations.

18 93. For at least four (4) years prior to the filing of this action and continuing to the
19 present, Defendants have had a consistent policy of failing to provide Plaintiff and other members
20 of the Vacation Pay Class with compensation at their final rate of pay for unused vested paid
21 vacation days pursuant to Labor Code section 227.3.

22 94. As a proximate result of Defendants' failure to pay vested vacation at the final rate
23 of Plaintiff and other members of the Vacation Pay Class upon their resignation or termination,
24 Defendants violated Labor Code section 227.3, entitling Plaintiff and other members of the Vacation
25 Pay Class to all vested and unused vacation pay at their final rate of pay, as set out in Defendants'
26 policy or the contract of employment between Plaintiff and other members of the Vacation Pay
27 Class, on the one hand, and Defendants, on the other hand.

28 95. As a further proximate result of Defendants' above-described acts and/or omissions,

1 Plaintiff and other members of the Vacation Pay Class are entitled to recover reasonable attorneys'
2 fees, costs of suit and prejudgment interest.

3 **NINTH CAUSE OF ACTION**

4 **(Unfair Competition – Against All Defendants)**

5 96. Plaintiff realleges and incorporates by reference all of the allegations contained in
6 the preceding paragraphs of this Complaint as though fully set forth hereat.

7 97. The unlawful conduct of Defendants alleged herein constitutes unfair competition
8 within the meaning of Business and Professions Code section 17200. Due to their unlawful business
9 practices in violation of the Labor Code, Defendants have gained a competitive advantage over other
10 comparable companies doing business in the State of California that comply with their obligations
11 to compensate employees in accordance with the Labor Code.

12 98. As a result of Defendants' unfair competition as alleged herein, Plaintiff and all other
13 similarly situated Class Members have suffered injury in fact and lost money or property. Plaintiff
14 and all other similarly situated Class Members have been deprived of, among other things, overtime
15 and minimum wage compensation; provision of meal and rest breaks, or compensation in lieu
16 thereof; provision of all wages upon termination or resignation; accurate wage statements; and
17 reimbursement of expenses incurred in furtherance of their work duties.

18 99. Pursuant to Business and Professions Code section 17203, Plaintiff and all other
19 similarly situated Class Members are entitled to (an) injunction(s) prohibiting Defendants from
20 further violating the Labor Code and requiring the establishment of appropriate and effective means
21 to prevent further violations, as well as restitution of all wages and other monies owed to them under
22 the Labor Code, including interest thereon, in which they had a property interest and which
23 Defendants nevertheless failed to pay them and instead withheld and retained for themselves.
24 Restitution of the money owed to Plaintiff and all other similarly situated Class Members is
25 necessary to prevent Defendants from becoming unjustly enriched by their failure to comply with
26 the Labor Code.

27 100. Plaintiff and all other similarly situated Class Members are entitled to costs of suit
28 under Code of Civil Procedure section 1032 and interest under Civil Code section 3287.

1 **TENTH CAUSE OF ACTION**

2 **(Civil Penalties Under Labor Code § 210 – Against All Defendants)**

3 101. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs of this Complaint as though fully set forth hereat.

5 102. At all relevant times herein, Labor Code section 204, requires and required that:
6 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
7 between the 16th and 26th day of the month during which the labor was performed, and labor
8 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
9 between the 1st and 10th day of the following month.”

10 103. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
11 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
12 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
13 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
14 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
15 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
16 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

17 104. At all relevant times herein, Defendants have had a consistent policy or practice of
18 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
19 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
20 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
21 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
22 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
23 for each subsequent violation in connection with each payment that was made in violation of Labor
24 Code section 204.

25 **ELEVENTH CAUSE OF ACTION**

26 **(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)**

27 105. Plaintiff realleges and incorporates by reference all of the allegations contained in
28 the preceding paragraphs of this Complaint as though fully set forth hereat.

1 106. Labor Code section 226, subdivision (a) by intentionally failing to furnish Plaintiff
2 and Aggrieved Employees with itemized wage statements that accurately reflect gross wages
3 earned; total hours worked; net wages earned; the name and address of each employer with whom
4 they have been placed to work; all applicable hourly rates in effect during the pay period and the
5 corresponding number of hours worked at each hourly rate; the legal name of the employer and/or
6 the name and address of the legal entity securing the employer's services; and other such information
7 as required by Labor Code section 226, subdivision (a).

8 107. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
9 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
10 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
11 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
12 deduction statement or fails to keep the records required in subdivision (a) of Section 226."

13 108. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
14 this section are in addition to any other penalty provided by law."

15 109. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
16 and have a policy or practice of failing to furnish non-exempt employees, including, without
17 limitation, Plaintiff, with itemized wage statements that accurately reflect gross wages earned; total
18 hours worked; net wages earned; all deductions; all applicable hourly rates in effect and the
19 corresponding number of hours worked at each hourly rate in effect during the pay period; the legal
20 name of the employer and/or the name and address of the legal entity securing the employer's
21 services; and other such information as required by Labor Code section 226, subdivision (a).

22 110. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
23 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
24 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
25 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
26 period for each subsequent violation.

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1 **TWELFTH CAUSE OF ACTION**

2 **(Violation of Labor Code § 558 – Against All Defendants)**

3 111. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs of this Complaint as though fully set forth hereat.

5 112. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
6 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
7 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
8 penalty as follows:

9 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and
10 for each pay period for which the employee was underpaid in addition to an
11 amount sufficient to recover underpaid wages;

12 (2) For each subsequent violation, one hundred dollars (\$100) for each
13 underpaid employee for each pay period for which the employee was
14 underpaid in addition to an amount sufficient to recover underpaid wages;

15 (3) Wages recovered pursuant to this section shall be paid to the affected
16 employee.”

17 113. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
18 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
19 causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages and minimum
20 wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during
21 their employment and after their employment separation; receive accurate, itemized wage
22 statements; be provided with the opportunity to inspect employment records; be provided with
23 notice as required under Labor Code section 2810.5; be provided with the proper accrual and use of
24 paid sick leave; be reimbursed for all work-related expenses and interest therein; and/or be paid out
25 all paid time off and/or vacation wages owed at the proper rate of pay.

26 114. As a direct and proximate result of the herein-described Labor Code violations,
27 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
28 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars

1 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
2 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

3 **THIRTEENTH CAUSE OF ACTION**

4 **(Violation of Labor Code § 1174.5 – Against All Defendants)**

5 115. Plaintiff realleges and incorporates by reference all of the allegations contained in
6 the preceding paragraphs of this Complaint as though fully set forth hereat.

7 116. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
8 every person employing labor in California to “[a]llow any member of the commission or the
9 employees of the Division of Labor Standards Enforcement free access to the place of business or
10 employment of the person to secure any information or make any investigation that they are
11 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
12 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
13 or papers of the person.”

14 117. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
15 every person employing labor in California to “[k]eep a record showing the names and addresses of
16 all employees employed and the ages of all minors.”

17 118. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
18 every person employing labor in California to “[k]eep, at a central location in the state or at the
19 plants or establishments at which employees are employed, payroll records showing the hours
20 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
21 piece rate paid to, employees employed at the respective plants or establishments. These records
22 shall be kept in accordance with rules established for this purpose by the commission, but in any
23 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
24 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
25 earned.”

26 119. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
27 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
28 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any

1 member of the commission or employees of the division to inspect records pursuant to subdivision
2 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

3 120. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
4 willfully failed to maintain the records required by Labor Code subdivision (c), failed to maintain
5 accurate and complete records required by Labor Code subdivision (d), and/or failed to allow
6 inspection of records as required by Labor Code subdivision (b).

7 121. As a direct and proximate result of the herein-described Labor Code violations,
8 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
9 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five
10 hundred dollars (\$500) per violation per Aggrieved Employee.

11 **FOURTEENTH CAUSE OF ACTION**

12 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

13 122. Plaintiff realleges and incorporates by reference all of the allegations contained in
14 the preceding paragraphs of this Complaint as though fully set forth hereat.

15 123. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
16 person acting either individually or as an officer, agent, or employee of another person, who pays
17 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
18 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
19 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
20 Section 203 as follows:

21 (1) For any initial violation that is intentionally committed, one hundred dollars
22 (\$100) for each underpaid employee for each pay period for which the
23 employee is underpaid. This amount shall be in addition to an amount
24 sufficient to recover underpaid wages, liquidated damages pursuant to
25 Section 1194.2, and any applicable penalties imposed pursuant to Section
26 203.

27 (2) For each subsequent violation for the same specific offense, two hundred fifty
28 dollars (\$250) for each underpaid employee for each pay period for which the

1 employee is underpaid regardless of whether the initial violation is
2 intentionally committed. This amount shall be in addition to an amount
3 sufficient to recover underpaid wages, liquidated damages pursuant to
4 Section 1194.2, and any applicable penalties imposed pursuant to Section
5 203.

6 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant
7 to Section 203, recovered pursuant to this section shall be paid to the affected
8 employee.”

9 124. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
10 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
11 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ wages for all hours
12 worked or otherwise under Defendants’ control due to, without limitation, routinely failing to
13 accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of
14 time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at
15 the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock.

16 125. As a direct and proximate result of the herein-described Labor Code violations,
17 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
18 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
19 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
20 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
21 subsequent violation.

22 **FIFTEENTH CAUSE OF ACTION**

23 **(Civil Penalties Under Labor Code § 2699 – Against All Defendants)**

24 126. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
25 and incorporates each by reference as though fully set forth hereat.

26 127. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
27 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
28 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or

1 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
2 action brought by an aggrieved employee on behalf of himself or herself and other current or former
3 employees pursuant to the procedures specified in Labor Code section 2699.3.

4 128. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
5 Code except those for which a civil penalty is specifically provided, the established civil penalty for
6 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
7 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
8 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
9 employee per pay period for each subsequent violation.

10 129. Plaintiff is informed and believes and based thereon alleges that Defendants, and
11 each of them, violated the Labor Code sections described herein, including, without limitation, for
12 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
13 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
14 employment and after employment separation; provide employees the opportunity to inspect
15 employment records; reimburse Aggrieved Employees for costs incurred in furtherance of their
16 work duties; provide notice as required under Labor Code section 2810.5; provide the proper accrual
17 and use of paid sick leave; and paying employees all owed paid time off and vacation time owed by
18 separation at the proper rate of pay, entitling Plaintiff and other Aggrieved Employees to civil
19 penalties for each of these Labor Code violations in the amounts set forth in Labor Code section
20 2699, subdivision (f).

21 130. Moreover, Plaintiff and other Aggrieved Employees within the State of California
22 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
23 connection with their herein-described claims for civil penalties.

24 **DEMAND FOR JURY TRIAL**

25 131. Plaintiff demands a trial by jury on all causes of action contained herein.

26 **PRAYER**

27 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
28 against Defendants as follows:

- 1 A. An Order certifying this case as a Class Action;
- 2 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
- 3 counsel as class counsel;
- 4 C. Damages for all wages earned and owed, including minimum, overtime wages, and
- 5 unpaid wages for vested vacation time, under Labor Code sections 510, 558.1, 1194,
- 6 1197, 1199 and 227.3;
- 7 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- 8 E. Damages for unpaid premium wages from missed meal and rest periods under,
- 9 among other Labor Code sections, 512, 558.1 and 226.7;
- 10 F. Penalties for inaccurate wage statements under Labor Code section 226, subdivision
- 11 (e) and 558.1;
- 12 G. Waiting time penalties under Labor Code sections 203 and 558.1;
- 13 H. Reimbursement for costs incurred in furtherance of work duties under Labor Code
- 14 sections 558.1 and 2802;
- 15 I. Preliminary and permanent injunction(s) prohibiting Defendants from further
- 16 violating the Labor Code and requiring the establishment of appropriate and effective
- 17 means to prevent further violations;
- 18 J. Restitution under Business and Professions Code section 17203;
- 19 K. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5,
- 20 1197.1, and 2699;
- 21 L. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
- 22 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 23 M. Pre-judgment and post-judgment interest at the maximum rate allowed by law;
- 24 N. For costs of suit incurred herein;
- 25 O. For reasonable attorneys' fees; and

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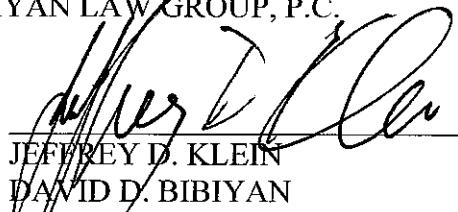
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P. For such other and further relief as the Court deems just and proper.

Dated: March 15, 2021

BIBIYAN LAW GROUP, P.C.

BY: 

JEFFREY D. KLEIN

DAVID D. BIBIYAN

Attorneys for Plaintiff ALFRED GONZALES, on
behalf of himself and all others similarly situated and
aggrieved