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WILBERTH MARQUEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE Assigned for All Purposes

Judge Nancy E. Zeltzer

WILBERTH MARQUEZ an individual,

Plaintiff,

v.

YOUNG IDEAS, INC., a California
corporation; YOUNG IDEAS
CONSTRUCTION, INC., an entity of unknown
form; and DOES 1 through 20, inclusive,

Defendants.

Case No. 30-2021-01177664-CU-OE-CJC

COMPLAINT FOR DAMAGES FOR:

- 1. FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);**
- 2. FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§510, 1194);**
- 3. FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);**
- 4. FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES (CAL. LABOR CODE §2802);**
- 5. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);**
- 6. PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ); AND**
- 7. UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.); AND**

DEMAND OVER \$25,000

[DEMAND FOR JURY TRIAL]

1 **COMES NOW PLAINTIFF, WILBERTH MARQUEZ**, and for causes of action against the
2 Defendants and each of them, alleges as follows:

3
4 **JURISDICTION**

5 1. This Court is the proper court, and this action is properly filed in Orange County, because
6 Defendants' obligations and liability arise therein, because Defendants maintain offices and transact
7 business within Orange County, and because the work that is the subject of this action was performed by
8 Plaintiff in Orange County.

9
10 **THE PARTIES**

11 2. Plaintiff, WILBERTH MARQUEZ, is and at all times relevant hereto was a resident of
12 the County of Orange, State of California.

13 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
14 hereto, Defendant YOUNG IDEAS, INC. (hereinafter referred to as "YI") was and is a California
15 corporation doing business in the County of Orange, State of California.

16 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
17 hereto, Defendant YOUNG IDEAS CONSTRUCTIONS, INC. (hereinafter referred to as "YIC") was
18 and is a California corporation doing business in the County of Orange, State of California.

19 5. YI and YIC are hereinafter referred to as "Employers" or "Defendants."

20 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
21 hereto, Employers owned and operated a construction company.

22 7. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint
23 employers and/or special employers within the meaning of Government Code §§12926, subdivision (d),
24 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more
25 persons and are therefore subject to the jurisdiction of this Court.

26 8. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint
27 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
28 Commission Order No. 1-2001, and are each an "employer or other person acting on behalf of an

1 employer” as such term is used in Labor Code section 558 and/or 558.1, and liable to Plaintiff on that
2 basis.

3 9. The true names and capacities, whether individual, corporate, associate, or otherwise, of
4 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
5 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
6 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
7 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
8 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
9 alleged hereinafter.

10 10. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
11 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,
12 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
13 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part
14 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,
15 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

16 11. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
17 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit
18 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
19 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code
20 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and
21 each of them, including those defendants named as DOES 1-20, and each of them, formed and executed
22 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,
23 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and
24 actually causing Plaintiff harm.

25 12. Whenever and wherever reference is made in this complaint to any act or failure to act by
26 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
27 and/or failures to act by each Defendant acting individually, jointly and severally.

28 ///

1 13. Plaintiff has filed complaints of discrimination, harassment, retaliation, failure to prevent
2 discrimination or retaliation, failure to accommodate, failure to engage in the interactive process, and
3 wrongful termination under Government Code §§12940, et seq., the California Fair Employment and
4 Housing Act (“FEHA”) with the California Department of Fair Employment and Housing (“DFEH”),
5 and has satisfied Plaintiff’s administrative prerequisites with respect to these and all related filings.

6
7 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

8 14. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
9 of interest and ownership between Employers and DOES 1-20 that the individuality and separateness of
10 defendants have ceased to exist.

11 15. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
12 purported corporate existence, Employers and DOES 1-20 are, in reality, one and the same, including,
13 but not limited to because:

14 a. Employers are completely dominated and controlled by one another and DOES 1-
15 20, who personally committed the frauds and violated the laws as set forth in this complaint, and who
16 have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or
17 accomplish some other wrongful or inequitable purpose.

18 b. Employers and DOES 1-20 derive actual and significant monetary benefits by and
19 through one another’s unlawful conduct, and by using one another as the funding source for their own
20 personal expenditures.

21 c. Employers and DOES 1-20, while really one and the same, were segregated to
22 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
23 accomplishing some other wrongful or inequitable purpose.

24 d. Employers do not comply with all requisite corporate formalities to maintain a
25 legal and separate corporate existence.

26 e. The business affairs of Employers and DOES 1-20 are, and at all times relevant
27 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
28 inextricable confusion. Employers are, and at all times relevant hereto were, used by one another and

DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of Defendants would not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate existence of Employers and DOES 1-20 should be disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

16. Accordingly, Employers constitute the alter ego of one another and DOES 1-20, and the fiction of their separate corporate existence must be disregarded.

17. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Employers and DOES 1-20 are Plaintiff's joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of Employers and DOES 1-20. Plaintiff performed services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which Defendants' business was and is conducted.

18. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and between DOES 1-20, Employers, or any of them, (1) there is an express or implied agreement of assumption pursuant to which Employers and/or DOES 1-20 agreed to be liable for the debts of the other Defendants, (2) the transaction between Employer sand/or DOES 1-20 and the other Defendants amounts to a consolidation or merger of the two corporations, (3) Employers and/or DOES 1-20 are a mere continuation of the other Defendants, or (4) the transfer of assets to Employers and/or DOES 1-20 is for the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employers and/or DOES 1-20 are the successors of one or more of the other Defendants and are liable on that basis.

FACTUAL ALLEGATIONS

19. On or about September 18, 2019, Plaintiff began working for Young Ideas, Inc. and Young Ideas Constructions, Inc. (hereinafter referred to as "Defendants" or "Employers"), as a general laborer. Plaintiff was a non-exempt, full-time employee, who performed all of his duties satisfactorily, until he was wrongfully terminated on or about February 19, 2020.

1 20. Between September 18, 2019 and December 31, 2019, Plaintiff's hourly wage rate was
2 \$15.00. During this time period, Plaintiff's fixed schedule was five days per week, Monday through
3 Friday, for approximately 8 hours per day.

4 21. Between January 1, 2020 and February 19, 2020, Plaintiff's hourly wage rate was \$15.00.
5 During this time period, Plaintiff's fixed schedule was five days per week, Monday through Friday, for
6 approximately 8 hours per day.

7 22. Plaintiff worked approximately 5 unpaid hours each week, for which Plaintiff received no
8 wages at all, not Plaintiff's hourly wage rate, or even the requisite minimum wage.

9 23. Plaintiff worked approximately 5 overtime hours each week, but [was not paid for these
10 hours at all.

11 24. Plaintiff's fixed schedule was five days per week, Monday through Friday, for
12 approximately 8 hours per day.

13 25. Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of
14 Plaintiff's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion
15 thereof.

16 26. Throughout Plaintiff's employment, Plaintiff did not receive uninterrupted statutory 30-
17 minute meal periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff
18 worked.

19 27. Throughout Plaintiff's employment, was required to drive to work sites using his own
20 personal vehicle. Defendants failed to indemnify Plaintiff's mileage. Defendants also failed to reimburse
21 Plaintiff for maintenance of personal tools used to perform his job duties. Defendants also required
22 Plaintiff to receive and responds to text message from management for work purposed on his personal
23 phone, which Defendants failed to reimburse or offer compensation for costs incurred.

24 28. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
25 managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard
26 of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages
27 be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this
28 Court.

FIRST CAUSE OF ACTION
FOR FAILURE TO PAY MINIMUM WAGES
(CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);
AGAINST ALL DEFENDANTS

29. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though set forth in full herein.

30. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed by law is unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid hours exceeded the minimum wage. Under California law, Plaintiff is entitled to at least the minimum wage for every hour worked.

31. Employers failed and refused to pay Plaintiff the legal minimum wage in the State of California, as set forth in Labor Code §1182.12, in each of the following ways:

32. From September 18, 2019 to December 31, 2019, Plaintiff worked approximately 5 hours per week without getting paid anything. Therefore, Plaintiff is owed **\$1,260.00** calculated at 5 hours per week for 21 weeks at \$12.00 per hour.

33. From January 1, 2020 to February 19, 2020, Plaintiff worked approximately 5 hours per week without getting paid anything. Therefore, Plaintiff is owed **\$650.00** calculated at 5 hours per week for 10 weeks at \$13.00 per hour.

34. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum wages in the amount of **\$1,910.00**.

35. Defendants' failure to pay the legal minimum wage to Plaintiff as alleged herein is unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by Plaintiff in a civil action for the unpaid balance of the full amount of the unpaid wages owed, calculated as the difference between the straight time compensation paid and applicable minimum wage, including interest thereon.

36. Pursuant to Labor Code §1194, Plaintiff requests that the court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

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1 37. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
2 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
3 additional \$1,910.00, plus interest thereon.

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5 **SECOND CAUSE OF ACTION**
6 **FOR FAILURE TO PAY OVERTIME COMPENSATION**
7 **(CAL. LABOR CODE §§510, 1194);**
8 **AGAINST ALL DEFENDANTS**

9 38. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though
10 set forth in full herein.

11 39. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
12 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
13 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
14 hours in a single day. It also requires employers to pay their non-exempt employees overtime
15 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
16 work week and double-time compensation for any work done beyond the first eight hours on the seventh
17 consecutive day of work.

18 40. At all relevant times, Defendants required Plaintiff to work more than eight hours per day
19 and/or more than 40 hours per workweek.

20 41. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
21 compensation required by Labor Code §510, the applicable 8 Code of Regulations section, and Industrial
22 Welfare Commission Order No. 16-2001.

23 42. Plaintiff worked 5 hours of overtime each week, all of which should have been paid at 1.5
24 times Plaintiff's regular hourly wage rate at that time. Defendants failed to pay Plaintiff the requisite
25 overtime wages in each of the following ways:

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1 43. From approximately September 18, 2019 to December 31, 2019, Plaintiff worked
2 approximately 105 hours of overtime. Plaintiff's overtime rate for this period was \$22.50 per hour.
3 During this time period, Plaintiff worked an average of 5 hours of overtime per week. Therefore, Plaintiff
4 is owed \$22.50 for each of those 105 hours, totaling **\$2,362.50**.

5 44. From approximately January 1, 2020 to February 19, 2020, Plaintiff worked
6 approximately 50 hours of overtime. Plaintiff's overtime rate for this period was \$22.50 per hour. During
7 this time period, Plaintiff worked an average of 5 hours of overtime per week. Therefore, Plaintiff is owed
8 \$22.50 for each of those 50 hours, totaling **\$1,125.00**.

9 45. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
10 Code §510, the applicable 8 Code of Regulations section, and Industrial Welfare Commission Order No.
11 16-2001.

12 46. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
13 of **\$4,487.50**, above and beyond the minimum wages sought in the preceding cause of action for these
14 same hours.

15 47. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation as a
16 direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is
17 entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

18
19 **THIRD CAUSE OF ACTION**
20 **FOR FAILURE TO PROVIDE MEAL AND REST PERIODS**
21 **(CAL. LABOR CODE §§226.7, 512)**
22 **AGAINST ALL DEFENDANTS**

23 48. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though
24 set forth in full herein.

25 49. Labor Code §512 requires employers to provide every employee with an uninterrupted
26 meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

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1 50. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted
2 rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion
3 thereof.

4 51. Plaintiff regularly worked in excess of five hours per day, and was thereby entitled to take
5 uninterrupted 30-minute meal periods and two 10-minute rest periods on each day of work.

6 52. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
7 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the
8 applicable 8 Code of Regulations section, and Industrial Welfare Commission Order No. 16-2001.

9 53. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of the
10 applicable 8 Code of Regulations section, and Industrial Welfare Commission Order No. 16-2001.
11 Consequently, Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite
12 minimum wage, whichever is greater, for each day that Plaintiff was denied such meal periods, and is
13 owed one hour of pay at Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is
14 greater, for each day that Plaintiff was denied such rest periods, calculated as follows:

15 54. From approximately September 18, 2019 to December 31, 2019, Plaintiff's statutory 30-
16 minute meal periods were missed, interrupted or cut short approximately 5 days per week for 21 weeks,
17 or on approximately 105 days. Consequently, Plaintiff is owed one hour of pay at \$15.00 for each day,
18 or **\$1,575.00** plus interest thereon, for unpaid missed or interrupted meal periods. During this same time
19 period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods on
20 approximately 105 days (5 days per week for 21 weeks). Consequently, Plaintiff is owed one hour of pay
21 at \$15.00 for each day, or **\$1,575.00**, plus interest thereon, for unpaid rest periods. Thus, Plaintiff is owed
22 a total of **\$3,150.00**, plus interest thereon, for unpaid meal and rest periods for this time period.

23 55. From approximately January 1, 2020 to February 19, 2020, Plaintiff's statutory 30-minute
24 meal periods were missed, interrupted or cut short approximately 5 days per week for 10 weeks, or on
25 approximately 50 days. Consequently, Plaintiff is owed one hour of pay at \$15.00 for each day, or
26 **\$750.00** plus interest thereon, for unpaid missed or interrupted meal periods. During this same time
27 period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods on
28 approximately 50 (5 days per week for 10 weeks). Consequently, Plaintiff is owed one hour of pay at

1 \$15.00 for each day, or **\$750.00** plus interest thereon, for unpaid rest periods. Thus, Plaintiff is owed a
2 total of **\$1,500.00** plus interest thereon, for unpaid meal and rest periods for this time period.

3 56. Plaintiff has been deprived of Plaintiff's rightfully earned compensation for meal and rest
4 breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

5 57. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
6 such amounts in the combined amount of **\$4,650.00**, pursuant to Labor Code §226.7(b), plus interest
7 thereon and costs of suit.

8
9 **FOURTH CAUSE OF ACTION**
10 **FOR FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES**
11 **(CAL. LABOR CODE §2802):**
12 **AGAINST ALL DEFENDANTS**

13 58. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though
14 set forth in full herein.

15 59. Pursuant to Labor Code §450(a), "no employer...may compel or coerce any employee...to
16 patronize his or her employer, or any other person, in the purchase of anything of value."

17 60. Pursuant to Labor Code §2802(a), "an employer shall indemnify his or her employee for
18 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
19 his or her duties, or of his or her obedience to the directions of the employer."

20 61. Plaintiff was required by Defendants to expend Plaintiff's personal funds because of the
21 duties required by Defendants, as alleged hereinabove.

22 62. Pursuant to Labor Code §2802(a), Defendants are legally required to reimburse Plaintiff
23 for all necessary expenditures incurred in the performance of Plaintiff's duties.

24 63. Defendants have failed and refused to reimburse Plaintiff for all necessary business
25 expenditures, including: Plaintiff's mileage for use of personal vehicle to get to and from worksites,
26 maintenance of personal tools used to perform his job duties, cost incurred from being required to use
27 personal cellular phone for work purposes.

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1 64. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
2 2502(a), Plaintiff is entitled to recover from Defendants the unpaid balance of all of the necessary
3 aforementioned expenditures.

4 65. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
5 2502(a), Plaintiff has been damaged in an amount according to proof at the time of trial.

6 66. Pursuant to Labor Code §2802(b), Plaintiff requests that the Court award interest at the
7 same rate as judgments in civil actions, accruing from the date on which Plaintiff incurred the necessary
8 expenditure or loss.

9 67. Pursuant to Labor Code §2802(c), Plaintiff requests that the Court award Plaintiff
10 reasonable attorneys' fees and costs incurred in this action.

11
12 **FIFTH CAUSE OF ACTION**
13 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
14 **(CAL. LABOR CODE §§226, ET SEQ.)**
15 **AGAINST ALL DEFENDANTS**

16 68. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though
17 set forth in full herein.

18 69. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
19 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,
20 total deductions and net wages earned. An employer who violates these code sections is liable to its
21 employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the
22 initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay
23 period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is
24 deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement
25 at all.

26 70. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates
27 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation
28 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

1 71. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
2 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net
3 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and
4 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
5 by Plaintiff. For the majority of the time and as to nearly all of Plaintiff's wages, Defendants knowingly
6 and intentionally, not inadvertently, failed to provide Plaintiff with paystubs at all, and instead paying
7 Plaintiff entirely in cash without any calculations of how Plaintiff's gross wages were calculated. Not
8 one of the paystubs that Plaintiff received complied with Labor Code §226, and contained almost none
9 of the required information, including hours actually worked.

10 72. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

11 73. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
12 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
13 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
14 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
15 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
16 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
17 meal period, and rest period wages. For the time periods that Plaintiff was not provided with paystubs at
18 all, Plaintiff's aforementioned injuries are presumed as a matter of law.

19 74. Plaintiff was paid on a weekly basis, and therefore Defendants violated Labor Code §226
20 approximately 31 times during the last year that Plaintiff worked for Defendants. Consequently,
21 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
22 amount of \$4,000.00, whichever is greater.

23 In addition, thereto, for Defendant's 31 violations, Defendants are penalized \$250.00 for the
24 first violation, and the remainder of which Defendants are penalized \$1000.00 each, for a total due in
25 Labor Code §226.3 penalties of **\$30,250.00** (\$250.00 + \$1,000.00 x 30 subsequent pay periods).

26 Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
27 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and
28 other applicable provisions, as well as attorneys' fees and costs.

SIXTH CAUSE OF ACTION
FOR PRIVATE ATTORNEY GENERAL ACT
(CAL. LABOR CODE §2699, ET SEQ) AGAINST ALL DEFENDANTS

75. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though set forth in full herein.

76. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties for Defendants' violations of the California Labor Code.

77. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as previously pleaded in this Complaint.

78. On October 23, 2020, more than 63 calendar days before filing this Complaint, Plaintiff provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code §2699.3(a). These violations included the above-stated Labor Code sections, each of which is enumerated among the serious violations set forth in Labor Code §2699.5.

79. As of the filing of this Complaint, Plaintiff has not received any response from the Labor and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently, Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

80. As a direct and proximate result of Defendants' California Labor Code violations as set forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly provide for a penalty, §§226.3, 226.7, 510, 512, and 558.

81. These penalties recoverable for Plaintiff alone totals approximately **\$6,100.00**.

82. Plaintiff may also seek these same penalties on behalf of all other aggrieved employees.

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1 83. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the recovered
2 civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

3
4 **SEVENTH CAUSE OF ACTION**
5 **FOR UNFAIR COMPETITION**
6 **(BUS. & PROF. CODE §17200 ET SEQ.)**
7 **AGAINST ALL DEFENDANTS**

8 84. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though
9 set forth in full herein.

10 85. Defendants' violations of the applicable 8 Code of Regulations section, Industrial Welfare
11 Commission Order No.16-2001,the above-stated Labor Code sections, 2699, and other applicable
12 provisions, as alleged herein, including Defendants' failure and refusal to pay minimum wages, overtime
13 wages, Defendants' failure to provide meal and rest breaks, and Defendants' failure to provide timely and
14 accurate wage and hour statements, constitute unfair business practices in violation of Business &
15 Professions Code §§17200, et seq.

16 86. As a result of Defendants' unfair business practices, Defendants have reaped unfair
17 benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be
18 made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

19 87. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent
20 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore
21 to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from
22 Plaintiff.

23
24 **PRAYER FOR RELIEF**

25 88. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12,
26 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 16-2001, in the amount of no less
27 than **\$1,910.00**;

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1 89. For liquidated damages pursuant to Labor Code §1194.2 in the amount of **\$1,910.00**, plus
2 interest;

3 90. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194,
4 Industrial Welfare Commission Order No. 16-2001, and the applicable 8 Code of Regulations section, in
5 the amount of no less than **\$4,487.50**;

6 91. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512,
7 in the amount of no less than **\$4,650.00**;

8 92. For reimbursement of necessary business expenses pursuant to Labor Code §2802, in the
9 amount according to proof, plus interest;

10 93. For damages pursuant to Labor Code §226 in the amount of **no less than \$4,000.00**;

11 94. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no
12 less than **\$30,250.00**;

13 95. For statutory penalties pursuant to Labor Code §2699(f), in the amount of no less than
14 **\$6,100.00** on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants' aggrieved
15 employees;

16 96. For prejudgment interest on each of the foregoing at the legal rate from the date the
17 obligation became due through the date of judgment in this matter.

18 97. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
19 Code and/or any other basis;

20 98. For post-judgment interest; and

21 99. For any other relief that is just and proper.

22 DATED: January 7, 2021

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24 By: _____


Jace H. Kim, Esq.
Carlos Andres Perez, Esq.
Javier Ramirez, Esq.
Attorney for Plaintiff
WILBERTH MARQUEZ

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1 **JURY TRIAL DEMANDED**

2 Plaintiff demands trial of all issues by jury.

3 DATED: January 7, 2021

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5
6 By: _____

7 
8 Jace H. Kim, Esq.
9 Carlos Andres Perez, Esq.
10 Javier Ramirez, Esq.
11 Attorney for Plaintiff
12 WILBERTH MARQUEZ
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