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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MATIAS PUGLISI, individually, on behalf
of all others similarly situated, and as a
representative of other aggrieved employees,

Plaintiff,

vs.

STORM WATER INSPECTION &
MAINTENANCE SERVICES, INC., a
California corporation; and DOES 1 to 10,

Defendants.

Case No.: 30-2020-01175159-CU-OE-CXC
Assigned for All Purposes
Judge Peter Wilson
CLASS ACTION
CX-102

COMPLAINT

- (1) Violation of California Labor Code §§ 510, 1194 and 1198 (Unpaid Overtime)
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums)
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums)
- (4) Violation of California Labor Code §§ 1194.2, 1197, and Minimum Wage Order (Failure to Pay Minimum Wage)
- (5) Violation of California Labor Code § 226(a) (Failure to Furnish Timely and Accurate Wage Statements)
- (6) Violation of Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination)
- (7) Violation of Labor Code §§ 2698 et seq.
- (8) Violation of California Business & Professions Code §§ 17200, et seq.

DEMAND FOR JURY TRIAL

1 Plaintiff Matias Puglisi, individually, on behalf of all other persons similarly situated,
2 and as a representative of other aggrieved employees, alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This class action is brought pursuant to California Code of Civil Procedure §
5 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction
6 limits of the Superior Court and will be established according to proof at trial. The penalties
7 sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be
8 established according to proof at trial.

9 2. This Court has jurisdiction over this action pursuant to the California
10 Constitution, Article VI § 10, which grants the Superior Court “original jurisdiction in all causes
11 except those given by statute to other courts.” The statutes under which this action is brought
12 do not specify any other basis for jurisdiction.

13 3. This Court has jurisdiction over all Defendants because, upon information and
14 belief, each party is either a citizen of California, has sufficient minimum contacts in California,
15 or otherwise intentionally avails itself of the California market so as to render the exercise of
16 jurisdiction over it by the California courts consistent with traditional notions of fair play and
17 substantial justice.

18 4. Venue is proper in this Court because, upon information and belief, one or more
19 of the named Defendants reside, transact business, or have offices in this county and the acts
20 and omissions alleged herein took place in this county.

21 5. California Labor Code §§ 2699 et seq., the “Labor Code Private Attorneys
22 General Act” (“PAGA”), authorizes aggrieved employees to sue directly for various civil
23 penalties under the California Labor Code.

24 6. Plaintiff timely provided notice to the California Labor Workforce Development
25 Agency (“LWDA”) and to Defendants, pursuant to California Labor Code § 2699.3(a).
26 Therefore Plaintiff may proceed with this action for penalties pursuant to California Labor Code
27 § 2699, et seq.
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DEFENDANTS' CONDUCT

14. SWIMS provide storm water maintenance and inspection services for property owners throughout Northern and Southern California. Services include stormwater maintenance, stormwater drain inspection, and stormwater pollution prevention plan.

15. Defendants employed Plaintiff as a Field Technician, a non-exempt employee from December 11, 2017 to June 23, 2020. Plaintiff last earned \$21 an hour.

16. Defendants required Plaintiff to work 15-hour shifts, five days a week, without meal periods and rest breaks. Defendants required Plaintiff to work a 4 am to 8 pm shift and travel to various job sites throughout Southern California—from Los Angeles to Vista to La Mesa to San Diego—to inspect, clean and maintain storm drains.

17. Defendants required Plaintiff to complete 5 to 7 work orders during each shift. Plaintiff travelled to the work order site, serviced the storm drains, and then travelled to the next work order site until all work orders were completed for the day.

18. Each work order required a two-person team. One person would go underground to service the storm drain and the other remained outside for rescue and safety.

19. Defendants staffed each work order with a two-person team only and made it virtually impossible for Plaintiff to take his meal periods and rest breaks. So Defendants failed to relieve Plaintiff for meal periods and rest breaks.

20. Defendants also automatically deducted 30 minutes of pay from Plaintiff—despite failing to provide him with a lawful meal period.

21. During the course of Plaintiff's employment, Defendants failed to compensate Plaintiff and Class members for all overtime hours worked in excess of eight hours per day and/or 40 hours per week as required by Labor Code §§ 510 and 1194, and applicable Industrial Welfare Commission's ("IWC") Wage Orders.

22. Plaintiff and Class members were not authorized or permitted lawful meal periods, and were not provided with one hour's wages in lieu thereof in violation of, among others, Labor Code §§ 226.7, 512, and applicable IWC Wage Orders.

23. Defendants' non-exempt employees were not authorized or permitted lawful meal

1 periods, and were not provided with one hour's wages in lieu thereof, in one or more of the
2 following manners:

- 3 (a) employees were regularly not authorized or permitted full thirty-minute
4 meal periods for work days in excess of five and/or ten hours and were
5 not compensated one hour's wages in lieu thereof, all in violation of,
6 among others, Labor Code §§ 226.7, 512, and applicable IWC Wage
7 Orders;
- 8 (b) employees were required to work through their daily meal period(s), or
9 work an unlawful "on-duty meal period";
- 10 (c) employees were required to work longer than five hours before being
11 allowed to take a meal period;
- 12 (d) employees were severely restricted in their ability to take a meal period.

13 24. Further Defendants failed to provide Plaintiff and Class members their second
14 meal periods for shifts longer than ten hours.

15 25. Plaintiff and Class members were not authorized or permitted lawful rest breaks,
16 and were not provided with one hour's wages in lieu thereof in violation of, among others,
17 Labor Code § 226.7 and applicable IWC Wage Orders.

18 26. As a result, Defendants failed to timely pay Plaintiff and Class members for all
19 wages owed to them and Plaintiff and Class members' paychecks did not include all wages
20 owed to Plaintiff and Class members.

21 27. Defendants also failed to correctly record Plaintiff and Class members' meal
22 periods as required by Labor Code § 1198 and applicable IWC Wage Orders.

23 **CLASS ACTION ALLEGATIONS**

24 28. Plaintiff brings this action individually, as well as on behalf of each and all other
25 persons similarly situated in a concerted effort to improve wages and working conditions for
26 other non-exempt and/or hourly employees, and thus seeks class certification under Code of
27 Civil Procedure § 382.

1 29. All claims alleged arise under California law for which Plaintiff seeks relief
2 authorized by California law.

3 30. The proposed Class consists of and is defined as:

4 All current and/or former non-exempt employees that worked for
5 Defendants in California within four years prior to the filing of this
6 Complaint.

7 31. The proposed subclasses consist of and are defined as:

8 OVERTIME SUBCLASS: All members of the Class who were
9 not paid overtime compensation for all hours worked in excess
10 of eight hours per day and/or 40 hours per week.

11 MEAL PERIOD SUBCLASS: All members of the Class who
12 were not authorized or permitted to take a 30-minute,
13 uninterrupted meal period for every five hours worked per day,
14 and were not compensated one hour's pay for each day on
15 which such meal period was not authorized or permitted.

16 REST BREAK SUBCLASS: All members of the Class who
17 were not authorized or permitted to take a 10-minute,
18 uninterrupted rest break for every four hours worked per day, or
19 major fraction thereof, and were not compensated one hour's
20 pay for each day on which such rest break was not authorized or
21 permitted.

22 UNPAID WAGES SUBCLASS: All members of the Class who
23 performed work for Defendants and were not compensated.

24 WAITING TIME SUBCLASS: All members of the Class who, at
25 any time after the date three years prior to the filing of this
26 Complaint, separated their employment from Defendants and
27 were not paid wages within the times specified by Labor Code §§
28 201-203 and are owed restitution for waiting time penalties
deriving from wages.

 WAGE STATEMENT SUB-CLASS: All members of the Class
who received inaccurate wage statements.

32. Plaintiff reserves the right to establish additional subclasses as appropriate.

33. At all material times, Plaintiff was a member of the Class.

34. There is a well-defined community of interest in the litigation and the Class is
readily ascertainable:

- 1 (a) Numerosity: The members of the class (and each subclass, if any) are
2 so numerous that joinder of all members would be unfeasible and
3 impractical. The membership of the entire class is unknown to
4 Plaintiff at this time; however, the class is estimated to be greater than
5 one hundred (100) individuals and the identity of such membership is
6 readily ascertainable by inspection of Defendants' employment records.
- 7 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
8 protect the interests of each class member with whom there is a shared,
9 well-defined community of interest. Plaintiff's claims (or defenses, if
10 any) are typical of all Class members' as demonstrated herein.
- 11 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
12 protect the interests of each class member with whom there is a shared,
13 well-defined community of interest and typicality of claims, as
14 demonstrated herein. Plaintiff acknowledges that Plaintiff has an
15 obligation to make known to the Court any relationship, conflicts or
16 differences with any class member. Plaintiff's attorneys, the proposed
17 class counsel, are versed in the rules governing class action discovery,
18 certification, and settlement.
- 19 (d) Superiority: The nature of this action makes the use of class action
20 adjudication superior to other methods. Class action will achieve
21 economies of time, effort, and expense as compared with separate
22 lawsuits, and will avoid inconsistent outcomes because the same issues
23 can be adjudicated in the same manner and at the same time for the
24 entire class.
- 25 (e) Public Policy Considerations: Employers in the State of California
26 violate employment and labor laws every day. Current employees are
27 often afraid to assert their rights out of fear of direct or indirect
28 retaliation. Former employees are fearful of bringing actions because

1 they believe their former employers might damage their future
2 endeavors through negative references and/or other means. Class
3 actions provide the Class members who are not named in the complaint
4 with a type of anonymity that allows for the vindication of their rights at
5 the same time as their privacy is protected.

6 35. There are common questions of law and fact as to the Class (and each subclass, if
7 any) that predominate over questions affecting only individual members, including but not
8 limited to:

- 9 (a) Whether Defendants engaged in a pattern or practice of failing to pay
10 Plaintiff and the Class members for the total hours worked during the
11 Class period;
- 12 (b) Whether Defendants' failure to pay wages, without abatement or
13 reduction, in accordance with the California Labor Code, was willful;
- 14 (c) Whether Defendants' timekeeping system and policies failed to record all
15 hours worked by Plaintiff and Class members;
- 16 (d) Whether Defendants owe Plaintiffs and Class members overtime pay for
17 work over eight hours per day, over 12 hours per day, and/or over forty
18 40 hours per week;
- 19 (e) Whether Defendants failed to record Plaintiff and Class members' meal
20 periods;
- 21 (f) Whether Defendants deprived Plaintiff and Class members of meal
22 periods or required Plaintiff and Class members to work during meal
23 periods without compensation;
- 24 (g) Whether Defendants deprived Plaintiff and Class members of rest periods
25 or required Plaintiff and Class members to work during rest periods
26 without compensation;
- 27 (h) Whether Defendants' conduct was willful or reckless;
- 28

- 1 (i) Whether Defendants violated Labor Code § 226 by failing to timely
2 furnish Plaintiff and Class members with accurate wage statements;
- 3 (j) Whether Defendants violated Labor Code §§ 218.5, 204, 1197, and 1198
4 by failing to compensate Plaintiff and Class members for those acts
5 Defendants required Plaintiff and Class members to perform for the
6 benefit of Defendants;
- 7 (k) Whether Defendants engaged in unfair business practices in violation of
8 California Business & Professions Code § 17200, et seq.; and
- 9 (l) The appropriate amount of damages, restitution, or monetary penalties
10 resulting from Defendants' violations of California law.

11 **FIRST CAUSE OF ACTION**

12 **Violation of California Labor Code §§ 510, 1194 and 1198—Unpaid Overtime**
13 **(Plaintiff and Class against all Defendants)**

14 36. Plaintiff incorporates all paragraphs above as though fully set forth herein.

15 37. California Labor Code § 510 provides that employees in California shall not be
16 employed more than eight hours in any workday or 40 hours in a workweek unless they receive
17 additional compensation beyond their regular wages in amounts specified by law.

18 38. California Labor Code §§ 1194 and 1198 provide that employees in California
19 shall not be employed more than eight hours in any workday unless they receive additional
20 compensation beyond their regular wages in amounts specified by law. Additionally California
21 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed
22 by the Industrial Welfare Commission is unlawful. The governing Wage Order of the Industrial
23 Welfare Commission requires, among other things, payment of a premium wage rate for all
24 hours worked in excess of eight hours per day or 40 hours per week.

25 39. During the course of Plaintiff and Class members' employment, Defendants
26 failed to compensate Plaintiff and Class members for all overtime hours worked in excess of
27 eight hours per day and/or 40 hours per week as required by Labor Code §§ 510 and 1194.

28 40. At all times, Defendants failed to pay Plaintiff and Class members overtime

1 compensation for the hours they have worked in excess of the maximum hours permissible by
2 law as required by California Labor Code § 510 and 1198. Plaintiff and Class members were
3 regularly required to work overtime hours without receiving overtime pay.

4 41. By virtue of Defendants' unlawful failure to pay additional, premium rate
5 compensation to Plaintiff and Class members for their overtime hours worked, Plaintiff and
6 Class members have suffered, and will continue to suffer, damages in amounts which are
7 presently unknown to them but which exceed the jurisdictional limits of this Court and which
8 will be ascertained according to proof at trial.

9 42. Plaintiff and Class members request recovery of overtime compensation
10 according to proof, interest, attorney's fees and costs pursuant to California Labor Code §
11 1194(a), as well as the assessment of any statutory penalties against Defendants, in a sum as
12 provided by the California Labor Code and/or other statutes.

13 43. Further Plaintiff and Class members are entitled to seek and recover reasonable
14 attorneys' fees and costs pursuant to California Labor Code § 1194.

15 **SECOND CAUSE OF ACTION**

16 **Violation of California Labor Code §§ 226.7 and 512(a)—Unpaid Meal Period Premiums**
17 **(Plaintiff and Class against all Defendants)**

18 44. Plaintiff incorporates all paragraphs above as though fully set forth herein.

19 45. The applicable IWC Wage Order and California Labor Code §§ 226.7 and
20 512(a) were applicable to Plaintiff's employment by Defendants.

21 46. California Labor Code § 226.7 provides that no employer shall require an
22 employee to work during any meal period mandated by an applicable order of the IWC.

23 47. The applicable IWC Wage Order and California Labor Code § 512(a) provide
24 that an employer may not require, cause or permit an employee to work for a period of more
25 than five (5) hours per day without providing the employee with an uninterrupted meal period of
26 not less than thirty (30) minutes, except that if the total work period per day of the employee is
27 not more than six (6) hours, the meal period may be waived by mutual consent of both the
28 employer and the employee.

48. Plaintiff was required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes. Plaintiff was not authorized or permitted lawful meal periods, and was not provided with one hour's wages in lieu thereof in violation of, among others, Labor Code §§ 226.7, 512, and applicable IWC Wage Orders.

49. Defendants willfully required Plaintiff to work during meal periods and failed to compensate Plaintiff for work performed during meal periods.

50. Defendants failed to pay Plaintiff the full meal period premium due pursuant to California Labor Code § 226.7.

51. Defendants' conduct violates the applicable IWC Wage Orders and California Labor Code §§ 226.7 and 512(a).

52. Pursuant to the applicable IWC Wage Order and California Labor Code § 226.7(b), Plaintiff is entitled to recover one additional hour of pay at the employee's regular hourly rate of compensation for each work day that the meal period was not provided.

THIRD CAUSE OF ACTION

Violation of California Labor Code § 226.7—Unpaid Rest Period Premiums
(Plaintiff and Class against all Defendants)

53. Plaintiff incorporates all paragraphs above as though fully set forth herein.

54. The applicable IWC Wage Order and California Labor Code § 226.7 were applicable to Plaintiff's employment by Defendants.

55. California Labor Code § 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the IWC.

56. The applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3½) hours.

57. Defendants required Plaintiff to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

58. Defendants willfully required Plaintiff to work during rest periods and failed to compensate Plaintiff for work performed during rest periods.

59. Defendants failed to pay Plaintiff the full rest period premium due pursuant to California Labor Code § 226.7. Defendants' conduct violates the applicable IWC Wage Orders and California Labor Code § 226.7.

60. Pursuant to the applicable IWC Wage Order and California Labor Code § 226.7(b), Plaintiff is entitled to recover one additional hour of pay at the employee's regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

Violation of California Labor Code §§ 1194, 1194.2, 1197 and Minimum Wage Order—

Failure to Pay Minimum Wages

(Plaintiff and Class against all Defendants)

61. Plaintiff incorporates all paragraphs above as though fully set forth herein.

62. California Labor Code § 1197 provides, "the minimum wage for employee fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than minimum wage so fixed is unlawful."

63. Defendants paid Plaintiff and Class members less than minimum wages when it required them to work during meal periods and rest breaks and "off the clock;" and when it failed to pay them proper compensation for all hours worked, including time worked during their missed and/or interrupted meal and/or rest periods and "off the clock."

64. Defendants have knowingly and willfully refused to compensate Plaintiff and Class members for all wages earned, and all hours worked, at the required minimum wage. As a direct result Plaintiff and Class members have suffered and continue to suffer, substantial losses related to the use and enjoyment of such compensation and wages; lost interest on such monies and expenses; and attorney's fees in seeking to compel Defendants to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial and within the jurisdiction of this Court.

65. In relevant part, California Labor Code § 1194 et seq. provides that any

1 employee receiving less than minimum wage applicable to the employee is entitled to recover in
2 a civil action the unpaid balance of the amount of this minimum wage, including interest,
3 reasonable attorney's fees, and cost of suit, which Plaintiff and Class members seek.

4 66. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members seek
5 liquidated damages available to employees who file an action under Labor Code § 1194.

6 **FIFTH CAUSE OF ACTION**

7 **Violation of California Labor Code § 226(a)—**

8 **Failure to Furnish Timely and Accurate Wage Statements**

9 **(Plaintiff and Class against all Defendants)**

10 67. Plaintiff incorporates all paragraphs above as though fully set forth herein.

11 68. At all material times set forth herein, California Labor Code § 226(a) provides
12 that every employer shall furnish each of his or her employees an accurate itemized wage
13 statement in writing showing nine pieces of information, including: (1) gross wages earned, (2)
14 total hours worked by the employee, (3) the number of piece-rate units earned and any
15 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided
16 that all deductions made on written orders of the employee may be aggregated and shown as one
17 item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid,
18 (7) the name of the employee and the last four digits of his or her social security number or an
19 employee identification number other than a social security number, (8) the name and address of
20 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
21 period and the corresponding number of hours worked at each hourly rate by the employee.

22 69. Defendants have intentionally and willfully failed to provide employees with
23 complete and accurate wage statements. The deficiencies include, among other things, the
24 failure to correctly identify the total hours worked and the gross wages earned by Plaintiff and
25 Class members; and the overtime hours worked by Plaintiff and Class members.

26 70. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff
27 and Class members have suffered injury and damage to their statutorily-protected rights.

28 71. Specifically Plaintiff and Class members have been injured by Defendants'

1 intentional violation of California Labor Code § 226(a) because they were denied both their
2 legal right to receive, and their protected interest in receiving, accurate, itemized wage
3 statements under California Labor Code § 226(a).

4 72. Plaintiff was also injured as a result of having to bring this action to attempt to
5 obtain correct wage information following Defendants' refusal to comply with many of the
6 mandates of California's Labor Code and related laws and regulations.

7 73. Plaintiff and Class members are entitled to recover from Defendants the greater
8 of their actual damages caused by Defendants' failure to comply with California Labor Code §
9 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

10 74. Plaintiff and Class members are also entitled to injunctive relief to ensure
11 compliance with this section, pursuant to California Labor Code § 226(g).

12 **SIXTH CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 201 and 202—**

14 **Wages Not Timely Paid Upon Termination**

15 **(Plaintiff and Class against all Defendants)**

16 75. Plaintiff incorporates all paragraphs above as though fully set forth herein

17 76. At all times, California Labor Code §§ 201 and 202 provide that if an employer
18 discharges an employee, the wages earned and unpaid at the time of discharge are due and
19 payable immediately, and that if an employee voluntarily leaves his or her employment, his or
20 her wages shall become due and payable not later than 72 hours thereafter, unless the employee
21 has given 72 hours previous notice of his or her intention to quit, in which case the employee is
22 entitled to his or her wages at the time of quitting.

23 77. During the relevant time period, Defendants willfully failed to pay Class
24 members who are no longer employed by Defendants their wages, earned and unpaid, either at
25 the time of discharge, or within 72 hours of their leaving Defendants' employ.

26 78. Class members' final paychecks did not include all wages owed to Class
27 members.

28 79. Defendants' failure to pay those Class members who are no longer employed by

Defendants their wages earned and unpaid at the time of discharge is in violation of California Labor Code §§ 201 and 202.

80. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than 30 days.

81. Class members are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to California Labor Code § 203.

SEVENTH CAUSE OF ACTION

Violation of California Labor Code §§ 2698, et seq.

(Plaintiff and Class against all Defendants)

82. Plaintiff incorporates all paragraphs above as though fully set forth herein.

83. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code.

84. At all times, PAGA was applicable to Plaintiff’s employment by Defendants.

85. At all times, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to procedures outlined in California Labor Code § 2699.3.

86. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved employee,” who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

87. Plaintiff was employed by Defendants and the alleged violations were committed against him during his time of employment and he is, therefore, Aggrieved Employee. Plaintiff and other employees are Aggrieved Employees as defined by California Labor Code § 2699(c) in that they are all current or former employees of Defendants who are or were employed by

1 Defendants, and one or more of the alleged violations were committed against them.

2 88. Pursuant to California Labor Code §§ 2699.3 and 2699.5, an aggrieved
3 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
4 requirements have been met:

5 (a) The aggrieved employee shall give written notice (“Employee’s Notice”)
6 to the LWDA and the employer of the specific provisions of the
7 California Labor Code alleged to have been violated, including the facts
8 and theories to support the alleged violations.

9 (b) The LWDA shall provide notice (“LWDA Notice”) to the employer and
10 the aggrieved employee by certified mail that it does not intend to
11 investigate the alleged violation within sixty (60) calendar days of the
12 postmark date of the Employee’s Notice. Upon receipt of the LWDA
13 Notice, or if the LWDA Notice is not provided within sixty-five (65)
14 calendar days of the postmark date of the Employee’s Notice, the
15 aggrieved employee may commence a civil action pursuant to California
16 Labor Code § 2699 to recover civil penalties in addition to any other
17 penalties to which the employee may be entitled.

18 89. On August 25, 2020 Plaintiff provided written notice online to the LWDA, and
19 by certified mail to Defendants, of the specific provisions of the California Labor Code alleged
20 to have been violated, including the facts and theories to support the alleged violations.

21 90. Plaintiff has satisfied the administrative prerequisites under California Labor
22 Code § 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies, for
23 violations of California Labor Code §§ 98.6, 201, 202, 203, 204, 226(a), 226.7, 226.8, 510,
24 512(a), 558, 1102.5, 1174, 1194, 1197, and 1198.

25 91. Pursuant to California Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff and
26 all other aggrieved employees are entitled to recover civil penalties against Defendants, in
27 addition to other remedies, for violations of California Labor Code §§ 98.6, 201, 202, 203, 204,
28 226(a), 226.7, 226.8, 510, 512(a), 558, 1102.5, 1174, 1194, 1197, and 1198.

1 92. Further Plaintiff is entitled to seek and recover reasonable attorneys' fees and
2 costs pursuant to California Labor Code § 2699 and any other applicable statute.

3 **EIGHTH CAUSE OF ACTION**

4 **Violation of California Business & Professions Code § 17200, et seq.**

5 **(Plaintiff and Class against all Defendants)**

6 93. Plaintiff incorporates all paragraphs above as though fully set forth herein.

7 94. Defendants, and each of them, are "persons" as defined under Business &
8 Professions Code § 17021.

9 95. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
10 unlawful, and harmful to Plaintiff, Class members, and to the general public. Plaintiff seeks to
11 enforce important rights affecting the public interest within the meaning of Code of Civil
12 Procedure § 1021.5.

13 96. Defendants' activities, as alleged herein, are violations of California law, and
14 constitute unlawful business acts and practices in violation of California Business & Professions
15 Code § 17200, et seq.

16 97. A violation of California Business & Professions Code § 17200, et seq. may be
17 predicated on the violation of any state or federal law. All of the acts described herein as
18 violations of, among other things, the California Labor Code and Industrial Welfare
19 Commission Wage Orders, are unlawful and in violation of public policy; and in addition are
20 immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair,
21 unlawful and/or fraudulent business practices in violation of California Business and
22 Professions Code § 17200, et seq.

23 **Failing to Pay Overtime**

24 98. Defendants' failure to pay overtime compensation and other benefits in violation
25 of California Labor Code §§ 510, 1197, and 1198 constitutes unlawful and/or unfair activity
26 prohibited by Business and Professions Code § 17200, et seq.

27 **Failing to Provide Meal and Rest Periods**

28 99. Defendants' failure to provide legally required meal and rest periods in violation

of California Labor Code, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code § 17200, et seq.

Failing to Pay Wages

100. Defendants' failure to pay minimum wages constitutes unlawful and/or unfair activity prohibited by Business and Professions Code § 17200, et seq.

Failing to Timely Pay Wages Upon Termination

101. Defendants' failure to timely pay wages upon termination in accordance with Labor Code §§ 201 and 202, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code § 17200, et seq.

Failing to Provide Accurate Itemized Wage Statements

102. Defendants' failure to provide accurate itemized wage statements in accordance with California Labor Code § 226, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code § 17200, et seq.

Failing to Record Meal Periods

103. Defendants' failure to record meal periods in violation of California Labor Code § 1198 and IWC Wage Order, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code § 17200, et seq.

104. By and through their unfair, unlawful and/or fraudulent business practices described herein, Defendants have obtained valuable property, money and services from Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

105. Plaintiff and Class members suffered monetary injury as a direct result of Defendants' wrongful conduct.

106. Plaintiff, individually, and on behalf of Class members, is entitled to, and does, seek such relief as may be necessary to disgorge the profits which the Defendants have acquired, or of which Plaintiff has been deprived, by means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and Class members are not obligated to establish individual knowledge of the unfair practices in order to recover restitution.

107. Plaintiff, individually, and on behalf of Class members, is further entitled to and do seek a declaration that the above described business practices are unfair, unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them, from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in the future.

108. Plaintiff, individually, and on behalf of Class members, has no plain, speedy, and/or adequate remedy at law to redress the injuries that he has suffered as a consequence of Defendants' unfair, unlawful and/or fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiff, individually, and on behalf of Class members, has suffered and will continue to suffer irreparable harm unless Defendants, and each of them, are restrained from continuing to engage in said unfair, unlawful and/or fraudulent business practices.

109. Pursuant to California Business & Professions Code § 17200, et seq., Plaintiff and Class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and Class members; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

PRAYER FOR RELIEF

Plaintiff, individually, and on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representatives of the Class; and
3. That counsel for Plaintiff be appointed as Class Counsel.

As to the First Cause of Action

4. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by wilfully failing to pay all overtime wages due to Plaintiff and Class members;

1 5. For general unpaid wages at overtime wage rates and such general and special
2 damages as may be appropriate;

3 6. For pre-judgment interest on any unpaid overtime compensation commencing
4 from the date such amounts were due;

5 7. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
6 California Labor Code § 1194(a); and,

7 8. For such other and further relief as the Court may deem equitable and
8 appropriate.

9 As to the Second and Third Causes of Action

10 9. That the Court declare, adjudge and decree that Defendants violated California
11 Labor Code §§ 226.7 and 512 and applicable IWC Wage Orders by wilfully failing to provide
12 all meal periods and rest breaks to Plaintiff and Class members;

13 10. That the Court make an award to the Plaintiff and Class members of one hour of
14 pay at each employee's regular rate of compensation for each workday that a meal period and
15 rest break were not provided;

16 11. For all actual, consequential, and incidental losses and damages, according to
17 proof;

18 12. For premiums pursuant to California Labor Code § 226.7(b);

19 13. For pre-judgment interest on any unpaid wages from the date such amounts were
20 due; and,

21 14. For such other and further relief as the Court may deem equitable and
22 appropriate.

23 As to the Fourth Cause of Action

24 15. That the Court declare, adjudge and decree that Defendants violated California
25 Labor Code §§ 1194 and 1197;

26 16. For general unpaid wages and such general and special damages as may be
27 appropriate;

28 17. For pre-judgment interest on any unpaid compensation commencing from the

1 date such amounts were due;

2 18. For liquidated damages;

3 19. For reasonable attorneys' fees and for costs of suit incurred; and

4 20. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 As to the Fifth Cause of Action

7 21. That the Court declare, adjudge and decree that Defendants violated the record
8 keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders as to
9 Plaintiff and Class members, and wilfully failed to provide accurate itemized wage statements;

10 22. For all actual, consequential and incidental losses and damages, according to
11 proof;

12 23. For statutory penalties pursuant to California Labor Code § 226(e);

13 24. For injunctive relief to ensure compliance with this section, pursuant to
14 California Labor Code § 226(g); and,

15 25. For such other and further relief as the Court may deem equitable and
16 appropriate.

17 As to the Sixth Cause of Action

18 26. That the Court declare, adjudge and decree that Defendants violated California
19 Labor Code §§ 201, 202, and 203 by wilfully failing to pay all compensation owed at the time
20 of termination of the employment of terminated Class members;

21 27. For all actual, consequential and incidental losses and damages, according to
22 proof;

23 28. For statutory wage penalties pursuant to California Labor Code § 203 for all
24 Class members who have left Defendants' employ;

25 29. For pre-judgment interest on any unpaid wages from the date such amounts were
26 due; and,

27 30. For such other and further relief as the Court may deem equitable and
28 appropriate.

As to the Seventh Cause of Action

31. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code sections: 510 and 1198 (by failing to provide Plaintiff and Class members all overtime compensation); 226.7 and 512 (by failing to provide all meal and rest periods and failing to pay for all missed meal and rest periods); 1194 and 1197 (by failing to pay minimum wages); 201, 202 and 203 (by failing to pay timely and earned wages upon termination); 226(a) (by failing to provide accurate itemized wage statements); and 1198 and IWC Wage Order (by failing to record meal periods);

32. For civil penalties pursuant to California Labor Code § 2699(a) and/or 2699(f) and (g) in the amount of at least one hundred dollars (\$100) for each violation per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, plus costs and attorneys' fees for violation of California Labor Code §§ 98.6, 201, 202, 203, 204, 226(a), 226.7, 226.8, 510, 512(a), 558, 1102.5, 1174, 1194, 1197, and 1198; and,

33. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

34. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code §§ 17200, et seq. by failing to provide Plaintiff and Class members all overtime compensation due to them; by failing to provide all meal and rest periods and failing to pay for all missed meal and rest periods; by failing to pay minimum wages; by failing to pay timely and earned wages upon termination; by failing to provide accurate itemized wage statements; and by failing to record meal periods;

35. For restitution of unpaid wages to Plaintiff and all Class members and prejudgment interest from the day such amounts were due and payable;

36. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code §§ 17200 et seq.;

37. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5;

38. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code § 17200, et seq.; and,

39. For such other and further relief as the Court may deem equitable and appropriate.

Respectfully Submitted,

Dated: December 17, 2020

MATHEW & GEORGE

/s/ Sang J Park

By: Sang J Park

Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby respectfully demands a jury trial.

Respectfully Submitted,

Dated: December 17, 2020

MATHEW & GEORGE

/s/ Sang J Park

By: Sang J Park

Attorneys for Plaintiff