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Superior Court of California
County of Los Angeles

JUL 29 2019

Sherri R. Carter, Executive Officer/Clerk of Court
By *[Signature]*, Deputy
Steven Brown

Attorneys for Plaintiff DAVID HILARIO, as an individual and on behalf of all others similarly situated,

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT
SPRING STREET COURTHOUSE**

DAVID HILARIO,

Plaintiff,

v.

MARSPRING CORPORATION dba LOS
ANGELES FIBER COMPANY; and
DOES 1 through 50, inclusive,

Defendant.

Case No.:

19STCV26229

CLASS ACTION

COMPLAINT FOR DAMAGES

1. Violation of Labor Code §§ 204, 510, 1182.12, 1194, 1197, Wage Order 1-2001 (Recovery of Unpaid Minimum Wage, Overtime and Reporting Time Pay);
2. Violation of Labor Code §§ 226.7, 512 (Meal Period Violations);
3. Violation of Labor Code §§ 226.7, Wage Order No. 9 (Rest Period Violations);
4. Violation of Labor Code §§ 201, 202, 203 (Failure to Pay Wages Due at Separation of Employment);
5. Violation of Labor Code § 2802 (Failure to Indemnify for Expenditures or Losses in Discharge of Duties); and
6. Violation of Bus. & Prof. Code §§ 17200 et seq. (Unfair Business Practices).

DEMAND FOR JURY TRIAL

1 Plaintiff DAVID ERNESTO HILARIO ("Plaintiff"), individually, and on behalf of all
2 others similarly situated, complains and alleges on information and belief as follows:

3 **INTRODUCTION**

4 1. This is a class action brought on behalf of Plaintiff and all others similarly situated,
5 and the class he seeks to represent ("Plaintiff Class" or "Class Members"). Plaintiff Class consists
6 of all forklift drivers, warehouse workers, helpers, and those in functionally equivalent positions
7 who worked in California for Defendants MARSPRING CORPORATION dba LOS ANGELES
8 FIBER COMPANY, and DOES 1 through 50 (collectively, "Defendants"). The term "Class
9 Period" is defined as four (4) years prior to the filing of this complaint through the date of
10 judgment. Plaintiff reserves the right to amend this complaint to reflect a different "Class Period"
11 as further discovery is conducted.

12 2. Plaintiff, individually and on behalf of Plaintiff Class, seeks relief against
13 Defendants for the failure to provide meal and rest periods or compensation in lieu thereof
14 pursuant to Labor Code sections 226.7 and 512; sections 11-12 of the Industrial Welfare
15 Commission ("IWC") Wage Order 1-2001; the failure to pay all wages due in violation of Labor
16 Code sections 510, 1194, and section 5 of IWC Wage Order 1-2001, including both regular and
17 overtime wages, minimum wages, and reporting time pay; the failure to pay wages due during
18 employment in violation of Labor Code section 204; the failure to pay wages due at separation of
19 employment pursuant to Labor Code sections 201, 202, and 203; and the failure to indemnify for
20 expenditures or losses in discharge of duties pursuant to Labor Code section 2802. Plaintiff further
21 seeks equitable remedies in the form of declaratory relief and injunctive relief, and relief under
22 the Business and Professions Code sections 17200 et seq. for unfair business practices.

23 3. At all relevant times herein, Defendants have consistently maintained and enforced
24 against Plaintiff Class the unlawful practices and policies set forth herein.

25 **JURISDICTION AND VENUE**

26 4. This Court is an appropriate venue for this action under Code of Civil Procedure
27 sections 395 and 395.5 because the acts that give rise to the causes of action alleged herein
28

1 occurred in the County of Orange, State of California. Plaintiff hereby designates the County of
2 Orange, State of California as the place of proper venue.

3 5. This Court has personal jurisdiction over Defendants because Defendants reside
4 in, are incorporated in, have their main place of business in, and/or conduct business in the State
5 of California, and a substantial portion of the acts, omissions, events, and transactions constituting
6 the causes of action alleged herein occurred within the State of California, and more specifically,
7 in the County of Orange. (Code Civ. Proc., § 410.10.)

8 6. This Court has subject matter jurisdiction over the causes of action alleged in this
9 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
10 excluded from exercising subject matter jurisdiction over said causes of action.

11 **THE PARTIES**

12 **Plaintiff**

13 7. Plaintiff DAVID ERNESTO HILARIO ("Plaintiff"), at various relevant times
14 herein, worked for Defendants between approximately 2004 and July 2018, and is entitled to
15 compensation for all hours worked, overtime compensation, premium pay, reporting time pay,
16 business expense reimbursements, and penalties from Defendants. Plaintiff worked for
17 Defendants for at least four (4) years prior to the commencement of this action, working at various
18 job sites throughout California assigned to him by Defendants.

19 8. The named Plaintiff in this action worked for Defendants as a forklift driver.
20 Plaintiff's duties included loading and unloading material, and deliver to different departments
21 on Defendant's business in Vernon, California.

22 9. Each of the Plaintiff Class consists of identifiable, current, and/or former similarly
23 situated persons who worked for Defendants.

24 **Defendants**

25 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant
26 MARSPRING CORPORATION dba LOS ANGELES FIBER COMPANY is a California
27 corporation with facilities in California, including Los Angeles County. Defendants are in the
28 business of manufacturing textile products in the bedding and furniture industries throughout

1 California and offering carpet cushion products made from post-consumer carpet materials.

2 11. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
3 participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50,
4 inclusive, but on information and belief alleges that said Defendants are legally responsible for
5 the violations alleged herein. Plaintiff will amend this complaint to allege the true names and
6 capacities of the DOE Defendants when ascertained.

7 12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
8 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
9 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each Defendant
10 are legally attributable to the other Defendants. Furthermore, Defendants operate as a joint
11 venture and/or single business enterprise, integrated enterprise and/or are agents of one another,
12 are alter egos, joint employers and conspire with one another to increase profits by engaging in
13 the conduct described in this complaint.

14 13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
15 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
16 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
17 below was acting, at least in part, within the course and scope of that authority as such agent,
18 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
19 the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant
20 are legally attributable to the other Defendants.

21 **FACTUAL ALLEGATIONS**

22 14. This class action lawsuit arises out of an ongoing wrongful scheme by Defendants
23 to deny their employees the benefits due under California's wage and hour laws for work
24 performed in California. Defendants wrongfully refused to pay Plaintiff and Plaintiff Class
25 minimum wages, overtime compensation, business expense reimbursements and other statutory
26 benefits mandated by California law.

27 15. Defendants communicated daily with the employer via their personal cell phones
28 whereby the Defendant would communicate assignments, coverage issues and status updates to

1 supervisor.

2 16. Plaintiff and Class Members frequently worked either over eight (8) hours per day
3 and/or forty (40) hours each week they worked for Defendants, but Defendants failed to pay them
4 the required minimum wages and overtime compensation in violation of the Labor Code and the
5 IWC Wage Orders. Defendant maintained a common practice of not paying employees overtime
6 wages for any time worked beyond 10 hours in a workday, which Plaintiff and Class Members
7 frequently were required to do. Defendant also maintained a common practice of rounding time
8 recorded by workers at 15-minute increments to the detriment of employees.

9 17. Defendants did not provide Plaintiff and Class Members with timely,
10 uninterrupted first and second meal periods, although they frequently worked over five (5) hours
11 per day, and over ten (10) hours per day during the busy season. Defendants maintained meal
12 period practices which either required Plaintiff and Class Members to come back to work in less
13 than thirty (30) minutes, thereby not permitting a full, uninterrupted duty-free meal period within
14 the first five (5) hours of work, if at all, in violation of the Labor Code and the IWC Wage Orders.

15 18. Defendants also failed to permit compliant rest periods. Specifically, Plaintiff and
16 Class Members could not take any breaks lasting ten (10) minutes, due to Defendants' practice of
17 pressuring them to finish jobs as quickly as possible in violation of the Labor Code and the IWC
18 Wage Orders.

19 19. Defendants further failed to reimburse Plaintiff and Class Members for any
20 business expenses. For example, Plaintiff and Class Members were also required to use their
21 personal cellular phones to communicate with Defendants' supervisors and managers but
22 Defendants did not reimburse them for a reasonable percentage of their cellular phone bills in
23 violation of the Labor Code and the IWC Wage Orders.

24 **DEFENDANTS MAINTAIN CONTROL OVER EMPLOYEES' WORK**

25 20. Defendants set workers' daily schedules, including start and end times, and job
26 locations, which were communicated daily by Defendants' dispatchers. Defendants require
27 workers to show up for the first job by a set time each day and stay until the job was finished.

28 ///

CLASS ALLEGATIONS

21. Plaintiff brings this action on behalf of himself and all other similarly situated persons, as a class action pursuant to Code of Civil Procedure section 382.

22. Plaintiff's proposed class consists of and is defined as follows: all individuals who worked for Defendants in a California location, including, but not limited to, forklift drivers, packers, helpers, warehouse workers, and those in functionally equivalent positions at any time during the period from four (4) years prior to the filing of this complaint until the date of judgment (the "Class Period").

23. Plaintiff reserves the right under rule 3.765 of the California Rules of Court, to amend or modify the Class description with greater specificity or further division into subclasses or limitation to particular issues.

24. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined community of interest in the litigation and because the proposed class can be ascertained by Defendants' records and through discovery.

25. Numerosity: The potential members of the class as defined are so numerous that joinder of all class members is impracticable. While the precise number of the Plaintiff Class is unknown, Plaintiff is informed and believes that Defendants have employed more than 100 class members during the Class Period.

26. Commonality: There are common questions of law and fact arising out of Defendants' conduct as described herein, including, but not limited to:

- a. Whether Defendants failed to pay all wages, including minimum and overtime wages, earned and due to Plaintiff and Plaintiff Class;
- b. Whether Defendants failed to provide meal periods to Plaintiff and Class Members;
- c. Whether Defendants failed to authorize and permit Plaintiff and Class Members to take rest periods;
- d. Whether Defendants were required to reimburse Plaintiff and Class Members

1 for a reasonable percentage of their cellular phone bills and costs;

2 e. Whether Defendants failed to pay all unpaid wages earned, including premium
3 pay wages, during the course of Plaintiff and Class Members' employment
4 upon separation of employment; and

5 f. Whether Defendants engaged in unfair/unlawful business practices.

6 27. Typicality: The claims of the Plaintiff are typical of the claims for the Plaintiff
7 Class, all of whom have incurred and/or will incur damages, as a result of Defendants' common
8 course of conduct and common policies and practices. The claims of Plaintiff are typical because
9 Defendants subjected all of its workers to the identical violations of the California Industrial
10 Welfare Commission Wage Orders, California Code of Regulations, the Labor Code and the
11 Business & Professions Code among other statutes and they were all subjected to Defendant's
12 policies and practices.

13 28. Adequacy of Representation: The Plaintiff will fairly and adequately represent
14 and protect the interests of the Plaintiff Class. Plaintiff's interests are not in conflict with those
15 of the Plaintiff Class. Plaintiff's attorneys are competent, well-versed and experienced in
16 litigating large employment class actions and other complex litigation matters.

17 29. Superiority of Class Action: Under the facts and circumstances set forth above, a
18 class action is superior to any other methods available for both the fair and efficient adjudication
19 of the rights of each class member inasmuch as joinder of individual relatively small claims of
20 Class Members is not practical and if each employee were required to file an individual lawsuit,
21 the corporate defendant would necessarily gain an unconscionable advantage since they would
22 be able to exploit and overwhelm the limited resources of each individual plaintiff. Requiring
23 each Class Member to pursue an individual remedy would also discourage the assertion of lawful
24 claims by employees fearful of retaliation and permanent damage to their careers at present
25 and/or subsequent employment. Further, the substantial risk of inconsistent or varying verdicts
26 or adjudications with respect to the individual Class Members against Defendants herein further
27 support class certification.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES**

3 **(Lab. Code, §§ 204, 510, 1182.12, 1194, 1194.2, 1197; IWC Wage Order 1-2001)**

4 **(By Plaintiff against All Defendants)**

5 30. Plaintiff realleges and incorporates by reference all preceding paragraphs herein
6 as if fully alleged herein.

7 31. Labor Code sections 1182.12 provides that on and after July 1, 2014, the minimum
8 wage for all industries shall not be less than nine dollars (\$9.00) per hour, and on and after January
9 1, 2016, the minimum wage for all industries shall not be less than ten (\$10.00) per hour. For
10 employers who employed 26 or more people from January 1, 2017 to December 31, 2017, the
11 minimum wage rate in California was ten dollars and fifty cents (\$10.50) per hour. From January
12 18, 2018 to December 31, 2018, the minimum wage rate in California was eleven dollars (\$11.00)
13 per hour. For employers who employed 26 or more people, from January 1, 2019, the minimum
14 wage rate in California was twelve dollars (\$12.00) per hour. Plaintiff is informed and believes,
15 and based thereon alleges, Defendants employs more than 26 employees.

16 32. Notwithstanding any other provision of the Labor Code, hourly minimum wage
17 rates are set for all industries according to statute. (Lab. Code, § 1182.12.) Employers must pay
18 employees no less than minimum wage for each hour worked. (Lab. Code, § 1194; IWC Wage
19 Order 1-2001, Sect. 4.)

20 33. In any action to recover payment of wages less than the minimum wage an
21 employee shall be entitled to recover liquidated damages in an amount equal to the wages
22 unlawfully unpaid and interest thereon. (Lab. Code, § 1194.2.)

23 34. Any work in excess of eight (8) hours in any workday and/or any work in excess
24 of forty (40) hours in a workweek shall be compensated at a rate of no less than one and one-half
25 times the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a); IWC Wage Order 1-
26 2001, Sect. 3(A).) Any work in excess of twelve (12) hours in a workday shall be compensated
27 at the rate of twice the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a); IWC
28 Wage Order 1-2001, Sect. 3(A)(1)(b).)

1 35. Any employee receiving less than the legal minimum wage or legal overtime
2 compensation is entitled to recover in a civil action the amount of unpaid wages, attorneys' fees
3 and costs of suit. (Lab. Code, § 1194, subd. (a).)

4 36. All wages earned in employment are due and payable twice during each calendar
5 month on dates designated in advance by the employer. (Lab. Code, § 204.)

6 37. Plaintiff and Plaintiff Class regularly worked over eight (8) hours per day and/or
7 forty (40) hours per week. Defendants failed to pay Plaintiff and Plaintiff Class all minimum
8 wage, overtime premiums and/or double-time premiums for all hours worked in excess of over
9 eight (8) hours per day and/or forty (40) hours per week for work performed for Defendants.
10 Plaintiff and Plaintiff Class were not paid all wages earned. Defendants also failed to pay Plaintiff
11 and Plaintiff Class reporting time pay for the days that they were scheduled to work, but were not
12 put to work. Pursuant to Labor Code sections 510, 1182.12, 1194, and section 5 of IWC Wage
13 Order 1-2001, the Plaintiff Class seeks the payment of all minimum wage, overtime and/or
14 double-time compensation, and reporting time pay earned and accrued beginning four (4) years
15 prior to filing this complaint, according to proof.

16 38. Additionally, Plaintiff and Plaintiff Class are entitled to liquidated damages,
17 attorneys' fees, costs, pursuant to Labor Code sections 218.5 and 1194, and prejudgment interest.

18 **SECOND CAUSE OF ACTION**

19 **FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF**

20 **(Lab. Code, §§ 226.7, 512)**

21 **(By Plaintiff against All Defendants)**

22 39. Plaintiff realleges and incorporates by reference all preceding paragraphs herein
23 as if fully alleged herein.

24 40. Labor Code sections 226.7 and 512 and IWC Wage Order 1-2001, sect. 11 provide
25 that no employer shall employ any person for a work period of more than five (5) hours without
26 providing a meal period uninterrupted by work duties of not less than thirty (30) minutes or
27 employ any person for a work period of more than ten (10) hours without a second (2nd) meal
28 period of not less than thirty (30) minutes.

41. Labor Code section 226.7 provides that if an employer fails to provide an employee with a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section. Plaintiff alleges Defendants failed to provide legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not relieving employees from all work duties during meal periods thereby preventing employees from taking legally compliant meal periods.

42. At all times relevant hereto, Plaintiff and Plaintiff Class have worked shifts more than five (5) hours in a workday.

43. Pursuant to Labor Code section 226.7, Plaintiff and Plaintiff Class are entitled to damages in the amount equal to one (1) hour of wages at their regular rate of pay for each missed meal break, in an amount to be proven at trial.

44. At varying times relevant hereto, Plaintiff and Plaintiff Class have worked shifts more than ten (10) hours in a workday. On those days, Plaintiff and Plaintiff Class were not provided with a second meal period.

45. Plaintiff individually, and on behalf of the Plaintiff Class, requests recovery of meal period premium compensation pursuant to Labor Code section 226.7 which they are owed beginning four (4) years prior to filing this complaint as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes. Pursuant to Labor Code section 218.5, Code of Civil Procedure section 1021.5, and any other provision of law, Plaintiff requests the court award reasonable attorney's fees and costs incurred by them in this action.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF

(Lab. Code, § 226.7)

(By Plaintiff against All Defendants)

46. Plaintiff realleges and incorporates by reference all preceding paragraphs herein as if fully alleged herein.

1 47. Labor Code section 226.7 and IWC Wage Order 1-2001, sect. 12 provide that
2 employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes
3 rest time per four (4) work hours or major fraction thereof.

4 48. Labor Code section 226.7, subdivision (b), provides that if an employer fails to
5 provide an employee rest periods in accordance with this section, the employer shall pay the
6 employee one (1) hour of pay at the employees' regular rate of compensation for each workday
7 that the rest period is not provided. Plaintiff and Plaintiff Class consistently worked over four (4)
8 hours per shift with no rest breaks, due to Defendants' uniform policies and practices.

9 49. Defendants failed to reasonably make available off-duty, uninterrupted rest breaks
10 to Plaintiff and Plaintiff Class throughout the Class Period.

11 50. Plaintiff and Plaintiff Class are entitled to damages in an amount equal to one (1)
12 hour of wages per missed rest break, in a sum to be proven at trial. Pursuant to Labor Code section
13 218.5, Code of Civil Procedure section 1021.5, and any other provision of law, Plaintiff requests
14 the court award reasonable attorney's fees and costs incurred by them in this action.

15 **FOURTH CAUSE OF ACTION**

16 **FAILURE TO PAY WAGES OF TERMINATED OR RESIGNED EMPLOYEES**

17 **(Lab. Code, §§ 201, 202, 203)**

18 **(By Plaintiff against All Defendants)**

19 51. Plaintiff realleges and incorporates by reference all preceding paragraphs herein
20 as if fully alleged herein.

21 52. Plaintiff is informed and believes, and based thereon alleges, that as part of
22 Defendants' ongoing unfair business practices, Defendants failed to pay all employees all wages
23 earned during their employment at the time of their separation in violation of Labor Code sections
24 200 and 201.

25 53. Labor Code section 201 provides that an employer is required to pay an employee
26 whose employment is terminated by the employer all wages earned and unpaid immediately upon
27 termination.

28 54. Labor Code section 202 requires an employer pay to an employee who quits his or

1 her employment, all wages earned and unpaid no later than 72 hours thereafter.

2 55. Labor Code section 203 provides that an employer who fails to pay all wages
3 earned and due an employee who is discharged or who quits within the timeframe set forth in
4 sections 201 and 202, the wages of the employee shall continue as a penalty from the due date at
5 the same rate of pay until paid, but not more than 30 days. In other words, the employer owes the
6 employee his or her daily rate of pay at their regular rate of pay for each day the full amount of
7 unpaid wages is not paid, for a penalty of up to 30 days' wages.

8 56. Throughout their employment, Defendants failed to pay to Plaintiff and the
9 Plaintiff Class all wages earned as set forth herein. Defendants further failed to pay these sums to
10 Plaintiff and the Plaintiff Class at the time their employment with Defendants ended and beyond
11 30 days thereafter.

12 57. Plaintiff and members of the Plaintiff Class who separated their employment with
13 Defendants within four (4) years of the filing of the original complaint until the date of entry of
14 judgment, without being paid proper compensation are entitled to thirty (30) days of pay at their
15 regular rate of pay as waiting time penalties.

16 **FIFTH CAUSE OF ACTION**

17 **INDEMNIFICATION FOR EXPENDITURES OR LOSSES IN DISCHARGE OF**
18 **DUTIES**

19 **(Lab. Code, § 2802)**

20 **(By Plaintiff against All Defendants)**

21 58. Plaintiff realleges and incorporates by reference all preceding paragraphs herein
22 as if fully alleged herein.

23 59. Defendant failed to indemnify their Plaintiff and Plaintiff Class for all necessary
24 expenditures or losses incurred by the Plaintiff and Plaintiff Class in direct consequence of the
25 discharge of their duties. Specifically, Defendant failed to indemnify Plaintiff and Plaintiff Class
26 for expenditures they incurred on their behalf, including without limitation, a reasonable
27 percentage of their cellular phone bills direct consequence of the discharge of their duties to
28 Defendant.

1 60. Defendant has not reimbursed Plaintiff and Plaintiff Class for all expenditures.
2 Plaintiff and Plaintiff Class are therefore entitled to be paid damages, attorney's fees, costs,
3 interest pursuant to Labor Code section 2802, subdivision (b) and (c), as well as all statutory
4 penalties, against Defendant in accordance with Labor Code section 2802, subdivision (d).

5 **SIXTH CAUSE OF ACTION**

6 **UNFAIR/UNLAWFUL BUSINESS PRACTICES**

7 **(Bus. & Prof. Code, §§ 17200 et seq.)**

8 **(By Plaintiff against All Defendants)**

9 61. Plaintiff realleges and incorporates by reference all preceding paragraphs herein
10 as if fully alleged herein.

11 62. Plaintiff brings this claim individually and on behalf of Class Members.

12 63. Business and Professions Code section 17200 ("UCL") prohibits unfair
13 competition in the form of any unlawful, unfair or fraudulent business act or practice.

14 64. Business and Professions Code section 17204 allows "any person who has suffered
15 injury in fact and has lost money or property as a result of such unfair competition" to prosecute
16 a civil action for violation of the UCL.

17 65. Labor Code section 90.5, subdivision (a), states it is the public policy of California
18 to vigorously enforce minimum labor standards in order to ensure employees are not required to
19 work under substandard and unlawful conditions, and to protect employers who comply with the
20 law from those who attempt to gain competitive advantage at the expense of their workers by
21 failing to comply with minimum labor standards.

22 66. Beginning at an exact date unknown to Plaintiff, but at least since the date four
23 years prior to the filing of this lawsuit, Defendant has committed acts of unfair competition as
24 defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair, and fraudulent
25 business practices and acts described in this complaint, including, but not limited to, violations of
26 Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197,
27 and 2802, as well as other statutes.

28 67. The violations of these laws and regulations, as well as of the fundamental

1 California public policies protecting workers, serve as unlawful predicate acts and practices for
2 purposes of Business and Professions Code sections 17200 et seq.

3 68. As a result of these actions, Plaintiff, on information and belief, alleges that
4 Defendant is able to unfairly compete with other comparable companies in the State of California
5 in violation of Business and Professions Code sections 17000 et seq. and sections 17200 et seq.
6 Due to these unlawful, unfair, and/or fraudulent business practices, Defendant has gained a
7 competitive advantage over other comparable companies doing business in the State of California.

8 69. The victims of these unlawful, unfair, and/or fraudulent business practices include,
9 but are not limited to, Plaintiff, putative class members, competing moving companies in the State
10 of California, and the general public. Plaintiff is informed and believes and thereon alleges that
11 Defendant performed the above-mentioned acts with the intent of gaining an unfair competitive
12 advantage and thereby injuring Plaintiff, putative class members, other competitors, and the
13 general public.

14 70. Plaintiff's success in this action will enforce important rights affecting the public
15 interest and public policy. In this regard, Plaintiff sues on behalf of the public as well as on behalf
16 of himself.

17 71. Business and Professions Code section 17203 provides that a court may make such
18 orders or judgments as may be necessary to prevent the use or employment by any person of any
19 practice which constitutes unfair competition. Injunctive relief is necessary and appropriate to
20 prevent Defendants from repeating their unlawful, unfair, and fraudulent business acts and
21 business practices alleged above.

22 72. Business and Professions Code section 17203 provides that the Court may restore
23 to any person in interest any money or property that may have been acquired by means of such
24 unfair competition. Plaintiff and the Plaintiff Class are entitled to restitution pursuant to Business
25 and Professions Code section 17203 for wages and payments unlawfully withheld from
26 employees, including the fair value of the meal and rest periods and other losses alleged herein,
27 during the four years period prior to the filing of this complaint. All remedies are cumulative
28 pursuant to Business and Professions Code section 17205.

73. Business and Professions Code section 17202 provides: “Notwithstanding section 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair competition.” Plaintiff and Plaintiff Class are entitled to enforce all applicable penalty provisions of the Labor Code pursuant to Business and Professions Code section 17202.

74. Plaintiff requests injunctive relief pursuant to Business and Professions Code section 17203 to enjoin Defendants from continuing the unfair/unlawful business practices alleged herein.

75. Plaintiff herein takes upon enforcement of these laws and lawful claims. There is a financial burden involved in pursuing this action. The action is seeking to vindicate a public right, and it would be against the interests of justice to penalize Plaintiff by forcing Plaintiff to pay attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code of Civil Procedure section 1021.5 and otherwise.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

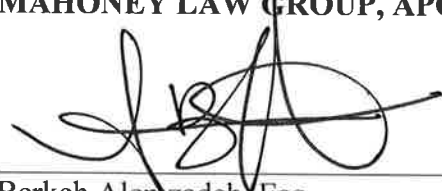
1. That the Court determine that this action may be maintained as a class action under Code of Civil Procedure section 382;
2. The Court appoint Plaintiff as Class Representative;
3. The Court appoint Mahoney Law Group, APC as class counsel;
4. For compensatory and statutory damages;
5. For restitution of all monies due to Plaintiff and Plaintiff Class from the unlawful/unfair business practices of Defendants;
6. For injunctive relief;
7. For statutory and civil penalties according to proof;
8. For reasonable attorneys' fees and costs pursuant to Labor Code sections 226, subdivision (e), 218.5 and 1194, Code of Civil Procedure section 1021.5, and/or other applicable law; and

1 9. That the Court award such other and further relief as this Court may deem
2 appropriate.

3
4 Dated: July 29, 2019

MAHONEY LAW GROUP, APC

5
6 By:


Berkeh Alenzadeh, Esq.
Attorney for Plaintiff DAVID HILARIO

DEMAND FOR JURY TRIAL

Plaintiff DAVID HILARIO, on behalf of himself and all Class Members, hereby demands
a jury trial on all causes of action and claims with respect to which they have a right to a jury trial.

Dated: July 29, 2019

MAHONEY LAW GROUP, APC

By:



Berkeh Alenzadeh, Esq.

Attorney for Plaintiff DAVID HILARIO