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12 individually and on behalf of all others similarly situated



DEC 01 2020

Sherri R. Carter, Executive Officer/Clerk of Court

By: Tanya Herrera, Deputy

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES**

15 EDGAR QUEZADA GONZALEZ,
16 individually and on behalf of all others
17 similarly situated,

18 Plaintiff,

19 vs.

20 TITAN SENQUEST MANAGEMENT,
21 INC.; and DOES 1-100, inclusive,

22 Defendants.

Case No. 20STCV32707

Assigned for all purposes to
Hon. Elihu M Berle, Dept. 6

**[Amended as a matter of right, pursuant to
Labor Code section 2699.3(a)(2)(C)]**

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods;
4. Failure to Permit Rest Breaks;
5. Failure to Pay Wages Upon Separation of
Employment and Within the Required Time;
6. Failure to Furnish Accurate Wage
Statements; and
7. Violation of California Business and
Professions Code §§ 17200, *et seq.*
8. Enforcement of Labor Code § 2698 *et seq.*
("PAGA")

1 Plaintiff Edgar Quezada Gonzalez, individually and on behalf of all others similarly
2 situated, alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Edgar Quezada Gonzalez (“Plaintiff”) brings this putative class and
5 representative action pursuant to the Private Attorneys General Act of 2004, Cal. Lab. Code. §
6 2698 *et seq.*, against Defendant Titan SenQuest Management, Inc. and Does 1 through 100,
7 inclusive (“Defendant” or “Titan”), on behalf of himself individually and on behalf of a class of
8 California citizens who worked for Titan and were classified as non-exempt employees or
9 misclassified as exempt employees.

10 2. Titan operates assisted living facilities.

11 3. Through this action, Plaintiff is alleging that Defendant has engaged in a systematic
12 pattern of wage and hour violations under the California Labor Code (“Labor Code”), all of which
13 contribute to Defendant’s deliberate unfair competition.

14 4. Plaintiff is informed and believes, and thereon alleges, during the relevant time
15 period, Defendant had a consistent policy of violating state wage and hour laws by, among other
16 things:

- 17 (a) Misclassifying Plaintiff and other employees as exempt employees;
- 18 (b) Failing to pay at least minimum wages for all hours worked
- 19 (c) Failing to pay overtime compensation for all overtime;
- 20 (d) Failing to provide meal periods or compensation in lieu thereof,
- 21 (e) Failing to authorize or permit rest breaks or provide compensation in lieu
22 thereof;
- 23 (f) Willfully failing to provide accurate semi-monthly itemized wage
24 statements; and
- 25 (g) Failing to pay all wages due upon separation of employment.

26 5. Plaintiff brings this lawsuit seeking monetary relief against Defendant on behalf of
27 himself and all others similarly situated to recover, among other things, unpaid wages and benefits,
28 interest, attorney’s fees, costs and expenses and penalties pursuant to Labor Code §§ 201-204, 210,

226, 226.3, 226.7, 227.3, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, and Code of California Civil Procedure § 1021.5.

6. Plaintiff, on behalf of himself and all class members, pursuant to Business and Professions Code sections 17200, *et seq.*, also seeks injunctive relief and restitution for the unfair, unlawful, or fraudulent practices alleged in this Complaint

JURISDICTION AND VENUE

7. This is a class action, pursuant to California Code of Civil Procedure § 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial

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

9. This Court has jurisdiction over all Defendant because, upon information and belief, Defendant has sufficient minimum contacts in California or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

10. Venue is proper in this Court because, upon information and belief, Defendant transacts business or have at least one facility in this county and the acts and omissions alleged herein took place in this county.

THE PARTIES

11. Plaintiff Edgar Quezada Gonzalez is a resident of California. Plaintiff was employed by Defendant during the relevant time period in California as alleged herein. Plaintiff was misclassified as an exempt employee and later reclassified as a non-exempt employee while working for Defendant.

12. Plaintiff is informed and believes, and thereon alleges, that Defendant at all times hereinafter mentioned, were and are employers as defined in and subject to the Labor Code and

IWC Wage Orders, whose employees were and are engaged throughout this county and the State of California.

13. Plaintiff is unaware of the true names or capacities of the defendant sued herein under the fictitious names DOES 1 through 100, but will seek leave of this Court to amend this Complaint and serve such fictitiously named defendant once their names and capacities become known.

14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendant. Furthermore, defendant in all respects acted as the employer and/or joint employer of Plaintiff and the class members.

15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or are attributable to, Defendant and/or DOES 1 through 100, acting as the agent or alter ego for the other, with legal authority to act on the other's behalf. The acts of any and all Defendant were in accordance with, and represent, the official policy of Defendant.

16. At all relevant times, Defendant, and each of them, acted within the scope of such agency or employment, or ratified each and every act or omission complained of herein. At all relevant times, Defendant, and each of them, aided and abetted the acts and omissions of each and all the other Defendant in proximately causing the damages herein alleged.

17. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently or otherwise responsible for the acts, omissions, occurrences and transactions alleged herein.

CLASS ACTION ALLEGATIONS

18. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of himself and all other members of the general public similarly situated who were affected by Defendants' Labor Code, Business and Professions Code §§ 17200 and IWC Wage Order violations.

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

3 20. Plaintiff's proposed Class consists of and is defined as follows:

4 Class of Misclassified Employees

5 All California citizens currently or formerly working for Defendant in
6 California who Defendant misclassified as exempt employees, whose job
duties and/or salary did not meet the test for exempt classification at any
time between April 6, 2016¹ and the date the Class is certified.

7 Class of Non-Exempt Employees

8 All California citizens currently or formerly employed by Defendants as
9 non-exempt employees in the State of California at any time between
April 6, 2016 and the date of class certification.

10 21. Plaintiff also seeks to certify the following Subclass:

11 Waiting Time Subclass

12 All Class members who separated their employment with Defendant at
13 any time between April 6, 2017 and the date the Subclass is certified.

14 22. Members of the Class and Subclass described above will collectively be referred to
15 as "class members." Plaintiff reserves the right to establish other or additional subclasses, or
16 modify any Class or Subclass definition, as appropriate based on investigation, discovery and
17 specific theories of liability.

18 23. This action has been brought and may properly be maintained as a class action
19 under the California Code of Civil Procedure § 382 because there are common questions of law
20 and fact as to the Class that predominate over questions affecting only individual members
21 including, but not limited to:

- 22 a. Whether Defendant misclassified Plaintiff and class members as exempt
23 employees rather than non-exempt employees;
24 b. Whether Defendant failed to pay at least minimum wage for all hours
25 worked by Plaintiff and class members;

26 _____
27 ¹ The statute of limitations for this matter was tolled pursuant to Cal. Rules of Court, Appendix I,
28 Emergency Rule No. 9.

- c. Whether Defendant required Plaintiff and class members to work over 8 hours per day, over 12 hours per day and/or over 40 hours per week and failed to pay them overtime compensation at the proper rate;
- d. Whether Defendant deprived Plaintiff and class members of timely meal periods or required Plaintiff and class members to work through meal periods without compensation;
- e. Whether Defendant deprived Plaintiff and class members of rest breaks or required Plaintiff and class members to work through rest breaks without compensation;
- f. Whether Defendant failed to timely pay Plaintiff and class members all earned wages during their employment;
- g. Whether Defendant failed to timely pay Plaintiff and Waiting Time Subclass members all wages due upon termination or within 72 hours of resignation;
- h. Whether Defendant failed to furnish Plaintiff and class members with accurate wage statements;
- i. Whether Defendant's conduct was willful or reckless; and
- j. Whether Defendant engaged in unfair business practices in violation of Business & Professions Code §§ 17200, *et seq.*

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

- (a) Numerosity: The members of the Class are so numerous that joinder of all members is impractical. Although the members of the Class are unknown to Plaintiff at this time, on information and belief, the Class is estimated to be greater than 100 individuals. The identity of the class members are readily ascertainable by inspection of Defendant's employment and payroll records.
- (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the claims (or defenses, if any) of the Class because Defendant's failure to comply with the provisions of California wage and hour laws entitled each

1 class member to similar pay, benefits and other relief. The injuries sustained
2 by Plaintiff are also typical of the injuries sustained by the Class because
3 they arise out of and are caused by Defendant's common course of conduct
4 as alleged herein.

5 (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately represent
6 and protect the interests of all members of the Class because it is in her best
7 interests to prosecute the claims alleged herein to obtain full compensation
8 and penalties due her and the Class. Plaintiff's attorneys, as proposed class
9 counsel, are competent and experienced in litigating large employment class
10 actions and are versed in the rules governing class action discovery,
11 certification and settlement. Plaintiff has incurred and, throughout the
12 duration of this action, will continue to incur attorneys' fees and costs that
13 have been and will be necessarily expended for the prosecution of this action
14 for the substantial benefit of each class member.

15 (d) Superiority: The nature of this action makes the use of class action
16 adjudication superior to other methods. A class action will achieve
17 economies of time, effort and expense as compared with separate lawsuits,
18 and will avoid inconsistent outcomes because the same issues can be
19 adjudicated in the same manner and at the same time for each Class. If
20 appropriate this Court can, and is empowered to, fashion methods to
21 efficiently manage this case as a class and/or collective action.

22 (e) Public Policy Considerations: Employers in the State of California and other
23 states violate employment and labor laws every day. Current employees are
24 often afraid to assert their rights out of fear of direct or indirect retaliation.
25 Former employees are fearful of bringing actions because they believe their
26 former employers might damage their future endeavors through negative
27 references and/or other means. Class actions provide the class members who
28 are not named in the complaint with a type of anonymity that allows for the

vindication of their rights at the same time as affording them privacy protections.

GENERAL ALLEGATIONS

25. Defendant misclassified Plaintiff and other non-exempt employees as exempt employees at Defendant's California business location(s).

26. Defendant continue to employ Plaintiff and class members within California as non-exempt employees.

27. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, Defendant was advised by skilled lawyers, employees and other professionals who were knowledgeable about California wage and hour law, employment and personnel practices and the requirements of California.

28. Through this action, Plaintiff alleges that Defendant has engaged in a systematic pattern of wage and hour violations under the California Labor Code and IWC Wage Orders, all of which contribute to Defendant's deliberate unfair competition.

29. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and class members were entitled to receive at least minimum wage and that they were not receiving at least minimum wage for work that was required to be performed. In violation of the Labor Code and IWC Wage Orders, Plaintiff and class members were not paid at least minimum wage for all hours worked.

30. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and class members were entitled to receive certain wages for overtime compensation. In violation of the Labor Code and IWC Wage Orders, Plaintiff and class members were not paid overtime for all overtime hours worked.

31. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and class members were entitled to receive all meal periods or payment of one (1) additional hour of pay at Plaintiff's and class members' regular rate of pay when they did not receive a timely, uninterrupted meal period. In violation of the Labor Code and IWC Wage Orders, Plaintiff and class members did not receive all meal periods or payment of one

(1) additional hour of pay at Plaintiff's and class members' regular rate of pay when they did not receive a timely, uninterrupted meal period when working more than five hours and a second timely, uninterrupted meal period when working more than ten (10) hours..

32. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and class members were entitled to receive all rest breaks or payment of one (1) additional hour of pay at Plaintiff's and class members' regular rate of pay when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiff and class members did not receive all rest breaks or payment of one (1) additional hour of pay at Plaintiff's and class members' regular rate of pay when a rest break was missed.

33. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and class members were entitled to timely payment of wages during their employment. In violation of the California Labor Code, Plaintiff and class members did not receive payment of all wages within permissible time periods.

34. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and Waiting Time Subclass members were entitled to timely payment of wages upon separation of employment. In violation of the California Labor Code, Plaintiff and Waiting Time Subclass members did not receive payment of all wages including, but not limited to, minimum wages, overtime wages, and vacation pay within permissible time periods.

35. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and class members were entitled to receive complete and accurate wage statements in accordance with California law. In violation of the California Labor Code, Plaintiff and class members were not furnished with complete and accurate wage statements showing their total hours worked, employee identification number or last four digits of social security number, number of hours worked at each hourly rate and gross and net wages, among other things.

36. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, Defendant knew or should have known that it had a duty to compensate Plaintiff and class

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1 members, and that Defendant had the financial ability to pay such compensation but willfully,
2 knowingly and intentionally failed to do so, all in order to increase Defendant's profits.

3 37. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief
4 against Defendant on behalf of himself and all class members to recover, among other things,
5 unpaid wages, interest, attorneys' fees, penalties, costs and expenses.

6 **FIRST CAUSE OF ACTION**

7 **FAILURE TO PAY MINIMUM WAGES**

8 **(Violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197; Violation of IWC Wage Order)**

9 38. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
10 though fully set forth herein.

11 39. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed
12 by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than
13 the minimum so fixed is unlawful.

14 40. During the relevant time period, Defendant paid Plaintiff and class members less
15 than minimum wage when they failed to pay compensation for all hours worked, such as during
16 missed and/or interrupted meal periods or other unpaid hours.

17 41. During the relevant time period, Defendant regularly failed to pay at least minimum
18 wage to Plaintiff and class members for all hours worked pursuant to Labor Code §§ 1194 and
19 1197.

20 42. Defendant's failure to pay Plaintiff and class members the minimum wage as
21 required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and class
22 members are entitled to recover the unpaid balance of their minimum wage compensation as well
23 as interest, costs and attorney's fees.

24 43. Pursuant to Labor Code § 1194.2, Plaintiff and class members are entitled to recover
25 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME WAGES**

3 **(Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order)**

4 44. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as
5 though fully set forth herein.

6 45. California Labor Code § 1198 and the applicable IWC Wage Order provide that it is
7 unlawful to employ persons without compensating them at a rate of pay either one and one-half or
8 two-times that person's regular rate of pay, depending on the number of hours worked by the
9 person on a daily or weekly basis.

10 46. Specifically, the applicable IWC Wage Order provides that Defendant are and were
11 required to pay Plaintiff and class members employed by Defendant, at the rate of one and one-half
12 times their regular rate of pay for all hours worked in excess of 8 hours in a day or 40 hours in a
13 workweek.

14 47. The applicable IWC Wage Order further provides that Defendant are and were
15 required to pay Plaintiff and class members employed by Defendant, at a rate of double their
16 regular rate of pay for all hours worked in excess of 12 in a day or in excess of 8 hours in a day on
17 the seventh consecutive day of work.

18 48. California Labor Code § 510 codifies the right to overtime compensation at one and
19 one-half times the regular hourly rate for hours worked in excess of 8 hours in a day or 40 hours in
20 a week or for the first 8 hours worked on the seventh day of work, and to overtime compensation at
21 twice the regular hourly rate for hours worked in excess of 12 hours in a day or in excess of 8 hours
22 in a day on the seventh consecutive day of work.

23 49. During the relevant time period, Plaintiff and class members worked in excess of 8
24 hours in a day, in excess of 12 hours in a day and/or in excess of 40 hours in a week.

25 50. During the relevant time period, Plaintiff and class members were not paid proper
26 overtime compensation for all the hours they worked in excess of 8 hours in a day, in excess of 12
27 hours in a day and/or in excess of 40 hours in a week. For example, Defendant failed to properly

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1 pay Plaintiff and class members for overtime hours worked while off-the-clock or while classified
2 as exempt.

3 51. During the relevant time period, Defendant willfully failed to pay all overtime
4 wages owed to Plaintiff and class members.

5 52. Defendant's failure to pay Plaintiff and class members the unpaid balance of
6 overtime compensation, as required by California law, violates the provisions of California Labor
7 Code §§ 510 and 1198, and is therefore unlawful.

8 53. Pursuant to California Labor Code § 1194, Plaintiff and class members are entitled
9 to recover their unpaid balance of the full amount of unpaid overtime compensation, as well as
10 interest, costs and attorneys' fees.

11 54. In committing the violations as herein alleged, Defendant has knowingly and
12 willfully refused to perform their obligations to compensate Plaintiff and class members for all
13 wages earned. As a direct result, Plaintiff and class members have suffered and continue to suffer
14 substantial losses relating to the use and enjoyment of such compensation, wages, lost interest on
15 such monies and expenses and attorneys' fees in seeking to compel Defendant to fully perform
16 their obligations under state law, all to their respective damage in amounts according to proof at
17 trial.

18 **THIRD CAUSE OF ACTION**

19 **FAILURE TO PROVIDE MEAL PERIODS**

20 **(Violations of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order)**

21 55. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as
22 though fully set forth herein.

23 56. Labor Code § 226.7 provides that no employer shall require an employee to work
24 during any meal period mandated by the IWC Wage Orders.

25 57. Section 11 of the applicable IWC Wage Order states, "no employer shall employ
26 any person for a work period of more than five (5) hours without a meal period of not less than
27 thirty (30) minutes, except that when a work period of not more than six (6) hours will complete

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1 the day's work the meal period may be waived by mutual consent of the employer and the
2 employee."

3 58. Labor Code § 512(a) provides that an employer may not require, cause or permit an
4 employee to work for a period of more than five (5) hours per day without providing the employee
5 with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work
6 period per day of the employee is not more than six (6) hours, the meal period may be waived by
7 mutual consent of both the employer and the employee.

8 59. Labor Code § 512(a) also provides that an employer may not employ an employee
9 for a work period of more than ten (10) hours per day without providing the employee with a
10 second meal period of not less than thirty (30) minutes, except that if the total hours worked is no
11 more than twelve (12) hours, the second meal period may be waived by mutual consent of the
12 employer and the employee only if the first meal period was not waived.

13 60. During the relevant time period, Plaintiff and class members did not receive
14 compliant meal periods for working more than five (5) and/or ten (10) hours per day because their
15 meal periods were missed, late, short, and/or they were not permitted to take a second meal period.

16 61. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order requires
17 an employer to pay an employee one additional hour of pay at the employee's regular rate of
18 compensation for each work day that the meal period is not provided.

19 62. At all relevant times, Defendant failed to pay Plaintiff and class members the full
20 meal period premium for missed and untimely meal periods pursuant to Labor Code § 226.7(b) and
21 section 11 of the applicable IWC Wage Order.

22 63. As a result of Defendant's failure to pay Plaintiff and class members an additional
23 hour of pay for each day a meal period was not provided, Plaintiff and class members suffered and
24 continue to suffer a loss of wages and compensation.

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FOURTH CAUSE OF ACTION
FAILURE TO PERMIT REST BREAKS

(Violation of Labor Code § 226.7; Violation of IWC Wage Order)

64. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

65. Labor Code § 226.7(a) provides that no employer shall require an employee to work during any rest period mandated by the IWC Wage Orders.

66. Section 12 of the applicable IWC Wage Order states “every 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 the “authorized 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.

67. During the relevant time period, Plaintiff and class members did not receive a ten (10) minute net rest period for every four (4) hours or major fraction thereof worked because they were required to work through their daily rest periods and/or were not authorized to take their rest periods.

68. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires an employer to pay an employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the rest period is not provided.

69. At all relevant times, Defendant failed to pay Plaintiff and class members the full rest period premium for missed or interrupted rest periods pursuant to Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order.

70. As a result of Defendant’s failure to pay Plaintiff and class members an additional hour of pay for each day a rest period was not provided, Plaintiff and class members suffered and continue to suffer a loss of wages and compensation.

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES UPON SEPARATION**

3 **OF EMPLOYMENT AND WITHIN THE REQUIRED TIME**

4 **(Violations of Labor Code §§ 201, 202, 203, 210, 227.3; Violation of IWC Wage Order)**

5 71. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as
6 though fully set forth herein.

7 72. California Labor Code §§ 201 and 202 provide that if an employer discharges an
8 employee, the wages earned and unpaid at the time of discharge are due and payable immediately,
9 and that if an employee voluntarily leaves his or her employment, his or her wages shall become
10 due and payable not later than seventy-two (72) hours thereafter, unless the employee has given
11 seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is
12 entitled to his or her wages at the time of quitting.

13 73. Labor Code § 227.3 provides all accrued vacation pay is due upon termination of
14 employment.

15 74. During the relevant time period, Defendant willfully failed to pay Plaintiff and
16 Waiting Time Subclass Members all their earned wages upon termination including, but not limited
17 to, minimum wages, overtime wages, and vacation pay, either at the time of discharge or within
18 seventy-two (72) hours of their leaving Defendant's employ.

19 75. Defendant's failure to pay Plaintiff and Waiting Time Subclass Members all their
20 earned wages at the time of discharge or within seventy-two (72) hours of their leaving
21 Defendant's employ, is in violation of California Labor Code §§ 201, 202, and 227.3.

22 76. California Labor Code § 203 provides that if an employer willfully fails to pay
23 wages owed promptly upon discharge or resignation as required under California Labor Code
24 §§ 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and
25 at the same rate until paid or until an action is commenced; but the wages shall not continue for
26 more than thirty (30) days.

27 77. Defendant willfully failed to pay Plaintiff and Waiting Time Subclass Members all
28 wages due and, as a result, owe Plaintiff and Waiting Time Subclass Members regular daily wages

1 for each day they were not paid, at their regular rates of pay up to a thirty (30) day maximum
2 pursuant to California Labor Code § 203 all in an amount to be shown according to proof at trial.

3 78. Based on these violations, Plaintiff and the Waiting Time Subclass seek to represent
4 request relief as described herein and below.

5 **SIXTH CAUSE OF ACTION**

6 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**

7 **(Violation of Labor Code § 226; Violation of IWC Wage Order)**

8 79. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as
9 though fully set forth herein.

10 80. Defendant has intentionally and willfully failed to provide Plaintiff and class
11 members with complete and accurate wage statements. The deficiencies include failing to
12 accurately report, among other things, gross wages earned, total hours worked by the employee, net
13 wages earned, all applicable hourly rates in effect during the pay period, and the corresponding
14 number of hours worked at each hour rate by the employee.

15 81. As a result of Defendant's violation of California Labor Code § 226(a), Plaintiff and
16 class members have suffered injury and damage to their statutorily protected rights. Specifically,
17 Plaintiff and class members have been injured by Defendant's intentional violation of California
18 Labor Code § 226(a) because they were denied both their legal right to receive, and their protected
19 interest in receiving, accurate itemized wage statements under California Labor Code § 226(a). In
20 addition, because Defendant failed to provide the accurate rates of pay on wage statements,
21 Defendant has prevented Plaintiff and class members from determining if all hours worked were
22 paid at the appropriate rate and the extent of the underpayment. Plaintiff has had to file this lawsuit
23 in order to analyze whether in fact Plaintiff was paid correctly and the extent of the underpayment,
24 thereby causing Plaintiff to incur expenses and lost time. Plaintiff would not have had to engage in
25 these efforts and incur these costs had Defendant provided the accurate rate of pay. This has also
26 delayed Plaintiff's ability to demand and recover the underpayment of wages from Defendant.

27 82. California Labor Code § 226(a) requires an employer to pay the greater of all actual
28 damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred, and one

1 hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
2 attorney's fees and costs, to each employee who was injured by the employer's failure to comply
3 with California Labor Code § 226(a).

4 83. Defendant's violations of California Labor Code § 226(a) prevented Plaintiff and
5 class members from knowing, understanding and disputing the wages paid to them, and resulted in
6 an unjustified economic enrichment to Defendant. As a result of Defendant's knowing and
7 intentional failure to comply with California Labor Code § 226(a), Plaintiff and class members
8 have suffered an injury, the exact amount of damages and/or penalties is all in an amount to be
9 shown according to proof at trial.

10 84. Plaintiff and class members are also entitled to injunctive relief under California
11 Labor Code § 226(g), compelling Defendant to comply with California Labor Code § 226, and
12 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

13 **SEVENTH CAUSE OF ACTION**

14 **UNFAIR BUSINESS PRACTICES**

15 **(Violation of Business and Professions Code §§ 17200 *et seq.*)**

16 85. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as
17 though fully set forth herein.

18 86. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of unfair
19 competition, which includes any "unlawful, unfair or fraudulent business act or practice"

20 87. A violation of California Business and Professions Code §§ 17200, *et seq.* may be
21 predicated on the violation of any state or federal law. In the instant case, Defendant's policies and
22 practices have violated state law causing Plaintiff and class members to suffer and continue to
23 suffer injuries in fact. As alleged herein, Defendant systematically engaged in unlawful conduct in
24 violation of the California Labor Code and IWC Wage Orders, such as willfully misclassifying
25 class members as exempt employees, failing to pay minimum and overtime wages, failing to
26 provide meal periods or compensation thereof, failing to authorize or permit paid rest breaks or
27 compensation in lieu thereof, failing to pay all wages due and owing upon separation of

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1 employment and in a timely manner, and failing to furnish accurate wage statements, all in order to
2 decrease their costs of doing business and increase their profits.

3 88. At all times relevant herein, Defendant intentionally avoided paying Plaintiff and
4 class members wages and monies, thereby creating for Defendant an artificially lower cost of doing
5 business in order to undercut their competitors and establish and/or gain a greater foothold in the
6 marketplace.

7 89. At the time Plaintiff and class members were hired, Defendant knowingly,
8 intentionally and wrongfully misrepresented to each of them their conformance with the California
9 Labor Code and IWC Wage Orders including proper payments required by law.

10 90. At all relevant times herein, Defendant held themselves out to Plaintiff and class
11 members as being knowledgeable concerning the labor laws of California.

12 91. At all times relevant herein, Plaintiff and class members relied on and believed
13 Defendant's representations concerning their conformance with California's wage and hour laws
14 all to their detriment.

15 92. As a result of Defendant's intentional, willful, purposeful and wrongful
16 misrepresentation of their conformance with the California Labor Code and IWC Wage Orders,
17 Plaintiff and class members suffered a loss of wages and monies, all in an amount to be shown
18 according to proof at trial. By violating the foregoing statutes and regulations as herein alleged,
19 Defendant's acts constitute unfair and unlawful business practices under California Business and
20 Professions Code §§ 17200, et seq.

21 93. Defendant's violations of the California Labor Code and IWC Wage Orders and
22 their scheme to lower their payroll costs as alleged herein, constitute unlawful business practices
23 because they were done in a systematic manner over a period of time to the detriment of Plaintiff
24 and class members.

25 94. As a result of the unfair business practices of Defendant, as alleged herein, Plaintiff
26 and class members are entitled to injunctive relief, disgorgement, and restitution in an amount to be
27 shown according to proof at trial.

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1 95. Plaintiff seeks to enforce important rights affecting the public interest within the
2 meaning of California Code of Civil Procedure § 1021.5. Defendant’s conduct, as alleged herein,
3 has been, and continues to be, unfair, unlawful and harmful to Plaintiff, class members and to the
4 general public. Based on Defendant’s conduct as alleged herein, Plaintiff and class members are
5 entitled to an award of attorneys’ fees pursuant to California Code of Civil Procedure § 1021.5.

6 **NINTH CAUSE OF ACTION**

7 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. (“PAGA”)**

8 96. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs as
9 though fully set forth herein.

10 97. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
11 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
12 (“LWDA”) or any of its departments, divisions, commissions, boards, agencies, or employees for
13 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
14 an aggrieved employee on behalf of himself or herself and other current or former employees
15 pursuant to the procedures specified in Labor Code § 2699.3.

16 98. For all provisions of the Labor Code except those for which a civil penalty is
17 specifically provided, Labor Code § 2699(f) imposes upon Defendant a penalty of one hundred
18 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
19 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
20 period in which Defendants violated these provisions of the Labor Code.

21 99. Defendant’s conduct violates numerous Wage Order and Labor Code sections,
22 including, but not limited to, the following:

- 23 (a) violation of Labor Code §§ 201-203, 204, 210, 510, 1182.12, 1194, 1197,
24 and 1198 for failure to timely pay all earned wages (including minimum
25 wage and overtime wages) owed to Plaintiff and other aggrieved employees
26 during employment and upon separation of employment as herein alleged;

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- (b) violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to Plaintiff and other aggrieved employees and failure to pay premium wages for missed meal periods as herein alleged;
- (c) violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;
- (d) violation of Labor Code § 226 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;
- (e) violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and complete records showing, among other things, the hours worked daily by and the wages paid to aggrieved employees; and
- (f) violation of Labor Code §§ 2800 and 2802 for failure to reimburse necessary business expenses owed to Plaintiff and other aggrieved employees as herein alleged.

100. Plaintiff is an “aggrieved employee” because he was employed by the alleged violator and had one or more of the violations committed against him, and therefore is properly suited to represent the interests of all other aggrieved employees.

101. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendant and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under PAGA.

102. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

103. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred herein.

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2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, prays for
4 judgment against Defendant as follows:

5 1. For certification of the proposed Class and Waiting Time Subclass and any other
6 appropriate subclasses under California Code of Civil Procedure § 382;

7 2. For appointment of Edgar Quezada Gonzalez as the class representative;

8 3. For appointment of Aegis Law Firm, PC as class counsel for all purposes;

9 4. For general damages;

10 5. For special damages;

11 6. For liquidated damages pursuant to California Labor Code § 1194.2;

12 7. For statutory penalties to the extent permitted by law, including those pursuant to
13 the California Labor Code and IWC Wage Orders;

14 8. For injunctive relief as provided by the California Labor Code and California
15 Business and Professions Code §§ 17200, *et seq.*;

16 9. For restitution as provided by California Business and Professions Code §§ 17200,
17 *et seq.*;

18 10. For an order requiring Defendant to restore and disgorge all funds to each employee
19 acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent
20 and, therefore, constituting unfair competition under California Business and Professions Code §§
21 17200, *et seq.*;

22 11. For an award of damages in the amount of unpaid compensation;

23 12. For pre-judgment interest;

24 13. For civil penalties;

25 14. For reasonable attorney's fees, costs of suit, and interest to the extent permitted by
26 law, including pursuant to California Code of Civil Procedure § 1021.5 and California Labor Code
27 §§ 226(e), 1194, and 2698 *et seq.*; and

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

Dated: December 1, 2020

AEGIS LAW FIRM, PC



By: _____

Chelsea D. Hollins
Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and
my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On December 1, 2020, I served the foregoing document entitled:

- 5 • **[Amended as a matter of right, pursuant to Labor Code section 2699.3(a)(2)(C)]**
6 **FIRST AMENDED CLASS ACTION COMPLAINT**

7 on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true
8 copy thereof on the party(ies) addressed below as follows:

9 Diane Crumpacker
10 Sonya D. Goodwin
11 SAUER & WAGNER LLP
12 1801 Century Park East, Suite 1150
13 Los Angeles, CA 90067
14 Telephone: 310.712.8100
15 Facsimile: 310.712.8108
16 dcrumpacker@swattys.com
17 sgoodwin@swattys.com

18 *Attorneys for Defendant:*
19 TITAN SENQUEST MANAGEMENT, INC.

20 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
21 correspondence for mailing. Under that practice it would be deposited with the U.S.
22 Postal Service on that same day with postage thereon fully prepaid at Irvine, California
23 in the ordinary course of business. I am aware that on motion of the party served, service
24 is presumed invalid if postage cancellation date or postage meter date is more than one
25 day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed.*
26 *R. Civ. Proc.* 5(a); *Fed. R. Civ. Proc.* 5(c).)

27 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
28 practice of Aegis Law Firm PC for collection and processing correspondence for
overnight delivery, and I caused such document(s) described herein to be deposited for
delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*
Code Civ. Proc. § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

29 ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
30 electronic transmission via CaseAnywhere to the above listed email addresses on the
31 date below. (*Cal. Code Civ. Proc.* § 1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R.*
32 *Civ. Proc.* 5(b)(3).)

33 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
34 the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.*
35 5(b)(2)(A).)

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

3 Executed on December 1, 2020, at Irvine, California.
4

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6 Andrea Drocco
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