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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 28 2020

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

VICENTE GONZALEZ as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

NORCO PASTICS, INC., a California
corporation; **BEYOND STAFFING**
SOLUTIONS, INC., a California corporation;
MOONSTONE PEO, INC., a Texas
corporation; and **DOES 1 through 100**,
inclusive,

Defendants.

Case No.: CIVSB2026519

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **FAILURE TO PAY ALL MINIMUM
WAGES OWED (LABOR CODE §§
1194, 1194.2, 1197);**
- (2) **FAILURE TO PAY ALL
OVERTIME WAGES OWED
(LABOR CODE §§ 204, 510, 558,
1194, 1198);**
- (3) **FAILURE TO AUTHORIZE AND
PERMIT REST PERIODS (LABOR
CODE §§ 226.7, 516, 558);**
- (4) **FAILURE TO PROVIDE
ACCURATE, ITEMIZED WAGE
STATEMENTS (LABOR CODE §
226 et seq.);**

1 (5) FAILURE TO TIMELY PAY ALL
2 WAGES UPON TERMINATION
(LABOR CODE §§ 201-203);

3 (6) UNFAIR COMPETITION (BUS &
4 PROF CODE § 17200 *et seq.*); and

5 (7) CIVIL PENALTIES UNDER THE
6 LABOR CODE PRIVATE
7 ATTORNEYS GENERAL ACTION
8 OF 2004 (LABOR CODE § 2698 *et*
9 *seq.*)

10 DEMAND FOR JURY TRIAL
11 UNLIMITED CIVIL CASE
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1 Plaintiff Vicente Gonzalez (“Plaintiff”), on behalf of himself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint (“FAC”)
3 against Norco Plastics, Inc., a California corporation; Beyond Staffing Solutions, Inc., a
4 California Corporation; Moonstone PEO, Inc., a Texas Corporation; and DOES 1 to 100,
5 inclusive (collectively “Defendants”), and on information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 FAC for recovery of unpaid wages and penalties under California Business and Professions Code
9 § 17200 *et. seq.*, Labor Code §§ 201-203, 204, 226 *et seq.*, 226.7, 510, 516, 558, 1194, 1194.2,
10 1197, 1198, 2698 *et seq.*, and Industrial Welfare Commission Wage Order 1 (“Wage Order 1”),
11 in addition to seeking declaratory relief and restitution. This FAC is brought pursuant to
12 California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations
13 of the California Labor Code because the amount in controversy exceeds this Court's
14 jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
17 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
18 County of San Bernardino. Defendants own, maintain offices, transact business, have agent(s)
19 within the County of San Bernardino, and/or otherwise are found within the County of San
20 Bernardino, and Defendants are within the jurisdiction of this Court for purposes of service of
21 process.

22 **PARTIES**

23 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
24 Plaintiff was and currently is, a California resident. During the four years immediately preceding
25 April 6, 2020¹ in this action and within the statute of limitations periods applicable to each cause
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27 ¹ Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than
28 180 days are suspended from April 6, 2020 through October 1, 2020. Accordingly, the relevant
time period for each cause of action pled herein have been calculated based on a filing date of
April 6, 2020. *See*, Cal. Rules of Court, emergency rule 9.

of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 201-203, 204, 226 *et seq.*, 226.7, 510, 516, 558, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, and California Business and Professions Code § 17200 *et seq.* ("Unfair Competition Law"); and Wage Order 1, which sets employment standards for the manufacturing industry, which includes the industry in which Plaintiff worked for Defendants.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding April 6, 2020 and continuing to the present, Defendants did (and continue to do) business by being a manufacturer of plastic injection molding products. Defendants employed Plaintiff and other, similarly-situated non-exempt employees within, among other counties, San Bernardino County and the state of California and, therefore, were (and are) doing business in San Bernardino County and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this FAC when such true names and capacities are discovered. Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 15) to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each

1 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
2 omissions complained of herein.

3 8. At all times mentioned herein, Defendants, and each of them, were members of
4 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
5 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
6 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
7 members of the Classes.

8 **GENERAL FACTUAL ALLEGATIONS**

9 9. Plaintiff, a former employee, was employed by Defendants as an hourly, non-
10 exempt employee from approximately March 2019 until approximately January 2020, at which
11 time he was terminated. During most of his employment with Defendants, Plaintiff was staffed
12 by Defendants Beyond Staffing Solutions, Inc. and Moonstone PEO, Inc. to work at Defendant
13 Norco Plastics, Inc.'s facility located in Chino, California as an assembler.

14 10. Throughout Plaintiff's employment with Defendants, Plaintiff was generally
15 scheduled to work Monday through Friday from approximately 3:00 p.m. to approximately 11:00
16 p.m. Throughout Plaintiff's employment with Defendants, Defendants utilized policies and
17 procedures that required Plaintiff to clock in and out by scanning a tag with a barcode on it.
18 Furthermore, Defendants' timekeeping policies and practices required Plaintiff to report to work
19 approximately five (5) minutes prior to the start of his scheduled shift and to continue working
20 after the end of his scheduled shift. This was because Defendants operated in 3 shifts at Norco
21 Plastics, and Plaintiff had to report early for his shift to replace the outgoing shift, and then would
22 have to stay late until he was relieved by the shift that followed the one he worked. Thus, Plaintiff
23 was often required to perform duties off-the-clock both before and after his shift for which he was
24 not paid. As a result of Defendants timekeeping policies and practices, Defendants failed to pay
25 Plaintiff all required minimum wages. Further, because Plaintiff would often work more than
26 eight (8) hours per day and/or forty (40) hours per week, Defendants' time-keeping policies and
27 practices also deprived Plaintiff of overtime wages owed to him.

28 11. Plaintiff was also not authorized and permitted to take all legally required paid rest

periods due to Defendants' unlawful rest period policies and practices. Specifically, Defendants maintain unlawful rest period policies and practices that require employees to remain on premises for rest periods. Accordingly, Defendants' rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, *or major fraction thereof*.

12. On those occasions when Plaintiff was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendants failed to compensate Plaintiff with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief, during at least a portion of the class period, Defendants maintained no payroll code or other mechanism for paying rest period premiums when Defendants failed to provide a legally compliant rest period.

13. As a result of Defendants' failure to pay all minimum and overtime wages, as well all rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees. Further, Defendants failed to comply with Labor Code section 226 by furnishing wage statements that failed to include the address of the legal entity that is the employer and also failed to include any of deductions or net pay received.

14. As a further result of Defendants' failure to pay all minimum and overtime wages, and failure to pay all rest period premium wages, Defendants failed to pay all wages owed to Plaintiff upon his separation of employment with Defendants.

CLASS ACTION ALLEGATIONS

15. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California (including any and all individuals who: (i) worked for Defendant Norco Plastics, Inc. directly or (ii) worked for and/or provided services for Defendant Norco Plastics, Inc. through the named staffing agencies or any other staffing agency) who were subject to Defendants' timekeeping

1 policies/practices, during the four years preceding April 6, 2020 through the
2 present.

3 b. The Overtime Class consists of all of Defendants' current and former non-exempt
4 employees in California (including any and all individuals who: (i) worked for
5 Defendant Norco Plastics, Inc. directly or (ii) worked for and/or provided services
6 for Defendant Norco Plastics, Inc. through the named staffing agencies or any
7 other staffing agency) who worked more than eight hours per day and/or forty
8 hours per week, and were subject to Defendants' timekeeping policies and
9 practices, during the four years immediately preceding April 6, 2020 through the
10 present.

11 c. The Rest Period Class consists of all of Defendants' current and former non-
12 exempt employees in California (including any and all individuals who: (i) worked
13 for Defendant Norco Plastics, Inc. directly or (ii) worked for and/or provided
14 services for Defendant Norco Plastics, Inc. through the named staffing agencies or
15 any other staffing agency) who worked at least one shift of 3.5 hours or more,
16 during the four years immediately preceding April 6, 2020 through the present.

17 d. The Wage Statement Class consists of all members of the: (i) Minimum Wage
18 Class; (ii) Overtime Class; and/or (iii) Rest Period Class during the one year
19 immediately preceding April 6, 2020 through the present.

20 e. The Waiting Time Penalty Class consists of Defendants' formerly employed
21 members of the: (i) Minimum Wage Class; (ii) Overtime Class; Rest Period Class
22 in California, during the three years immediately preceding April 6, 2020 through
23 the present.

24 f. The UCL Class consists of members of the: (i) Minimum Wage Class; (ii)
25 Overtime Class; (iii) Rest Period Class; (iv) Wage Statement Class; and/or (v)
26 Waiting Time Penalty Class, during the four years immediately preceding April 6,
27 2020 through the present.

28 16. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court,

to amend or modify the description of the various classes with greater specificity or further division into subclasses or limitation to particular issues.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members. Those common questions include, without limitation:

- i. Whether Defendants' properly paid all minimum wages and/or overtime wages at the correct regular rate of pay and/or paid for all hours worked pursuant to Labor Code §§ 204, 510, 558, 1194, 1194.2, 1197, and 1198;
- ii. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- iii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- iv. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were unlawful; and
- v. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether as a result Defendants owe the classes restitution.

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform

timekeeping, minimum wage payment, overtime wage payment, and rest period policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

20. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the FAC. As alleged herein, Plaintiff, like the members of the Classes, was not provided all legally required minimum and overtime wages, was not authorized and permitted to take all required rest periods, did not receive all rest period premium wages when he was not provided compliant rest periods, was not paid all wages upon separation of his employment with Defendants, and was not provided with accurate, itemized wage statements.

21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

22. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with

1 their vastly superior financial and legal resources. Moreover, requiring each member of the
2 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
3 employees who would be disinclined to file an action against their former and/or current employer
4 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
5 employment. Further, the prosecution of separate actions by the individual class members, even
6 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
7 with respect to the individual class members against Defendants herein; and which would
8 establish potentially incompatible standards of conduct for Defendants; and/or legal
9 determinations with respect to individual class members which would, as a practical matter, be
10 dispositive of the interest of the other class members not parties to adjudications or which would
11 substantially impair or impede the ability of the class members to protect their interests. Further,
12 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
13 individual prosecution considering all of the concomitant costs and expenses attending thereto.
14 As such, the Classes identified in Paragraph 15 are maintainable as a Class under § 382 of the
15 Code of Civil Procedure.

16 **FIRST CAUSE OF ACTION**

17 **FAILURE TO PROVIDE MINIMUM WAGES OWED**

18 **(AGAINST ALL DEFENDANTS)**

19 23. Plaintiff re-alleges and incorporates by reference all previous paragraphs as though
20 fully set forth herein.

21 24. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194
22 and 1198 which provide that all non-exempt employees are entitled to all minimum wages for all
23 hours worked, and provide a private right of action for the failure to pay all minimum wage
24 compensation for all work performed.

25 25. At all times relevant herein, Defendants were required to properly compensate
26 Plaintiff and the members of the Minimum Wage Class for all hours worked pursuant to California
27 Labor Code §§ 1194, 1197 and 1198, and Wage Order 1. Wage Order 1, Section 4 requires an
28 employer to pay to every employee on the established payday for the period involved not less

1 than the applicable minimum wage for all hours worked in the payroll period. Defendants caused
2 Plaintiff and the members of the Minimum Wage Class to work hours in a workweek but did not
3 properly compensate Plaintiff and the members of the Minimum Wage Class at least minimum
4 wages for such hours.

5 26. At all relevant times herein, Defendants lacked good faith and had no reasonable
6 grounds for believing that their practices in failing to pay all minimum wages owed at the
7 applicable rate was not a violation of any provision of the Labor Code relating to minimum wage,
8 or an order of the Industrial Welfare Commission. Defendants therefore, in addition to owing
9 minimum wages to Plaintiff and the members of the Minimum Wage Class, also owe liquidated
10 damages in an amount equal to the wages unlawfully unpaid, and interest thereon, pursuant to
11 Labor Code § 1194.2.

12 27. The foregoing practices and policies are unlawful and create entitlement to
13 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
14 amount of minimum wages owing, including interest thereon, as well as statutory penalties,
15 liquidated damages, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code
16 §§ 204, 218.5, 218.6, 558, 1194, 1194.2, 1197, 1197.1 and 1198, Wage Order 1, California Code
17 of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

18 **SECOND CAUSE OF ACTION**

19 **FAILURE TO PAY ALL OVERTIME WAGES OWED**

20 **(AGAINST ALL DEFENDANTS)**

21 28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

22 29. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194 and
23 1198 which provide that all non-exempt employees are entitled to all overtime wages for all
24 overtime worked (hours in excess of 8 in one day and/or 40 in one week), and provide a private
25 right of action for the failure to pay all overtime compensation for overtime work performed.

26 30. At all times relevant herein Defendants were required to properly compensate
27 Plaintiff and the members of the Overtime Class for all overtime hours worked pursuant to
28 California Labor Code §§ 510 and 1194, and Wage Order 1. Labor Code § 510 and Wage Order

1, Section 3 require an employer to pay an employee “one and one-half (1½) times the regular rate of pay” for work in excess of 8 hours per workday and/or in excess of 40 hours per workweek. Labor Code § 510 and Wage Order 1, Section 3 also require an employer to pay an employee double the employee’s regular rate for work in excess of 12 hours each workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff and the members of the Overtime Class to work in excess of 8 hours in a workday and/or 40 hours in a workweek but did not properly compensate Plaintiff and the members of the Overtime Class at one and one-half their regular rate of pay for such hours.

31. The foregoing practices and policies are unlawful and create entitlement to recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid amount of overtime premium owing, including interest thereon, as well as statutory penalties, civil penalties, and attorneys’ fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 510, 558, 1194 and 1198, Wage Order 1, California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

THIRD CAUSE OF ACTION

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS

(AGAINST ALL DEFENDANTS)

32. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

33. Wage Order 1, § 12 and California Labor Code §§ 226.7, 516 and 558 establish the right of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest time for each four (4) hour period worked, or *major fraction thereof*.

34. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all required rest periods.

35. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

3 **(AGAINST ALL DEFENDANTS)**

4 36. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
7 and members of the Wage Statement Class with complete and accurate wage statements with
8 respect to their actual regular and overtime hours worked, total gross wages earned, total
9 deductions, employer address, and total net wages earned, all in violation of Labor Code § 226 *et*
10 *seq.*

11 38. Defendants' failures in furnishing Plaintiff and members of the Wage Statement
12 Class with complete and accurate itemized wage statements resulted in actual injury, as said
13 failures led to, among other things, unpaid wages and unpaid rest period premium wages, and
14 deprived them of the information necessary to identify the discrepancies in Defendants' reported
15 data.

16 39. Defendants' failures create an entitlement to recovery by Plaintiff and members of
17 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
18 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and
19 costs of suit according to California Labor Code § 226 *et seq.*

20 **FIFTH CAUSE OF ACTION**

21 **FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION**

22 **(AGAINST ALL DEFENDANTS)**

23 40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24 41. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
25 an employer to pay all wages immediately at the time of separation of employment in the event
26 the employer discharges the employee or the employee provides at least 72 hours of notice of
27 their intent to quit. In the event the employee provides less than 72 hours of notice of their intent
28 to quit, said employee's wages become due and payable not later than 72 hours upon said

employee's last date of employment.

42. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Penalty Class all final wages due to them at their separation from employment, including, rest period premium wages.

43. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Penalty Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.

44. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Penalty Class their earned wages upon separation from employment results in a continued payment of wages up to thirty days from the time the wages were due.

45. Therefore, Plaintiff and members of the Waiting Time Penalty Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

46. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

47. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by failing to authorize and permit all required rest periods, or pay premium payments in lieu thereof.

48. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

49. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged

herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

50. The acts complained of herein occurred within the last four years immediately preceding April 6, 2020 in this action.

51. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

SEVENTH CAUSE OF ACTION

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004

(AGAINST ALL DEFENDANTS)

52. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

53. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- 1 a) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay
2 Plaintiff and other aggrieved employees the statutory minimum wage for all
3 hours worked;
- 4 b) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to
5 pay Plaintiff and other aggrieved employees all overtime compensation earned;
- 6 c) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all
7 legally required rest periods and failing to pay rest period premiums to Plaintiff
8 and other aggrieved employees;
- 9 d) Defendants violated Labor Code § 226 by failing to furnish Plaintiff and other
10 aggrieved employees with accurate and compliant itemized wage statements;
- 11 e) Defendants violated Labor Code § 204 by failing to pay Plaintiff and other
12 aggrieved employees all earned wages at least twice during each calendar month;
- 13 f) Defendants violated Labor Code § 1174 by failing to maintain accurate records
14 on behalf of Plaintiff and other aggrieved employees; and
- 15 g) Defendants violated Labor Code §§ 201, 202 and 203 by failing to timely pay
16 all final wages due to Plaintiff and other aggrieved employees.

17 54. On September 28, 2020, Plaintiff notified Defendants via certified mail, and the
18 California Labor and Workforce Development Agency (“LWDA”) via e-mail, of Defendants’
19 violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties
20 under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code
21 identified in Paragraph 53 (a)-(g). Now that sixty-five days have passed from Plaintiff notifying
22 Defendants of these violations, Plaintiff has exhausted his administrative requirements for bringing
23 a claim under the Labor Code Private Attorneys General Act with respect to these violations.

24 55. Plaintiff was compelled to retain the services of counsel to file this court action to
25 protect his interests and the interests of other aggrieved employees, and to assess and collect the
26 civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which
27 he is entitled to receive under California Labor Code § 2699.

28 **PRAYER**

1 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
2 this suit is brought against Defendants, as follows:

- 3 1. For an order certifying the proposed Classes;
- 4 2. For an order appointing Plaintiff as representative of the Classes;
- 5 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 6 4. Upon the First Cause of Action, for compensatory, consequential, general and
7 special damages according to proof pursuant to Labor Code §§ 204, 558, 1194, 1194.2, 1197,
8 1197.1 and 1198;
- 9 5. Upon the Second Cause of Action, for compensatory, consequential, general and
10 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 11 6. Upon the Third Cause of Action, for compensatory, consequential, general and
12 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
- 13 7. Upon the Fourth Cause of Action, for statutory wage statement penalties pursuant
14 to Labor Code § 226 *et seq.*;
- 15 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
16 Labor Code § 203;
- 17 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the
18 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
19 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*
20 *seq.*;
- 21 10. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other
22 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
23 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
24 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
25 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
26 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for
27 each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3)
28 \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor

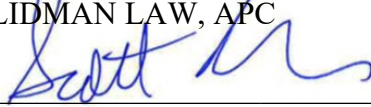
Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations cited in Paragraph 53 (a)-(g) above;

11. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

12. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 218.5 and Code of Civil Procedure § 1021.5 and all other applicable statutes; and

13. For such other and further relief the Court may deem just and proper.

Dated: December 28, 2020

Respectfully submitted,
LIDMAN LAW, APC

By: _____
Scott M. Lidman
Elizabeth Nguyen
Milan Moore
Attorneys for Plaintiff
VICENTE GONZALEZ

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: December 28, 2020

Respectfully submitted,
LIDMAN LAW, APC

By: _____
Scott M. Lidman
Elizabeth Nguyen
Milan Moore
Attorneys for Plaintiff
VICENTE GONZALEZ

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, California 90245.

On December 28, 2020, I served the document(s) described as: **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested party(ies) in this action as follows:

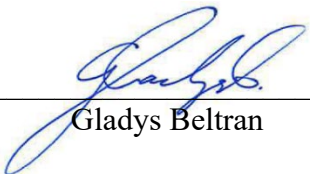
Robert A. Hufnagel, Esq. (rhufnagel@rlattorneys.com)
RESNICK & LOUIS, P.C.
3350 Shelby Street, Suite 200
Ontario, California 91764
Tel: (909) 906-1277
Attorneys for Defendant Norco Plastics, Inc.

☐ **(BY ELECTRONIC SERVICE)** I caused a true and correct copy of the document(s) described above to be electronically served via Case Anywhere on counsel of record at the electronic service addresses listed above.

☒ **(BY MAIL)** I am "readily familiar" with Lidman Law, APC's practice of collection and processing correspondence for mailing. I enclosed the document(s) in a sealed envelope or package addressed to the persons at the address(es) listed above. Under the practice the correspondence would be deposited with the U.S. postal service on the same day with postage thereof fully prepaid at El Segundo, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage date is more than one day after date of deposit for mailing in affidavit.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 28, 2020, at El Segundo, California.



Gladys Beltran