

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Randolph Hammock

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10 JUAN CARRETO, an individual,

11 Plaintiff,

12 v.

13 UNIVERSAL BUILDING MAINTENANCE,
14 LLC d/b/a ALLIED UNIVERSAL
15 JANITORIAL SERVICES, a California limited
liability company; and DOES 1 through 20,
inclusive,

16 Defendants.
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Case No. **20STCV46025**

COMPLAINT FOR DAMAGES FOR:

1. **FAILURE TO PAY WAGES (CAL. LABOR CODE §§201, 1194);**
2. **FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);**
3. **FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§510, 1194);**
4. **FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);**
5. **FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);**
6. **WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);**
7. **PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ);**
8. **UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.)**

DEMAND OVER \$25,000

DEMAND FOR JURY TRIAL

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

3
4 **JURISDICTION**

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

9
10 **THE PARTIES**

11 2. Plaintiff, JUAN CARRETO, is and at all times relevant hereto was a resident of the County
12 of Los Angeles, State of California.

13 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
14 hereto, Defendant UNIVERSAL BUILDING MAINTENANCE, LLC d/b/a ALLIED UNIVERSAL
15 JANITORIAL SERVICES (hereinafter referred to as "Employer") was and is a California limited
16 liability company doing business at 12322 Exposition Boulevard in the city of Los Angeles, in the County
17 of Los Angeles, State of California.

18 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
19 hereto, Employers owned and operated a private janitorial services business.

20 5. At all times relevant herein, Employer and DOES 1-20 were Plaintiff's employers, joint
21 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
22 Commission Order No. 5-2001 and are each any "employer or other person acting on behalf of an
23 employer" as such term is used in Labor Code section 558, and liable to Plaintiff on that basis.

24 6. The true names and capacities, whether individual, corporate, associate, or otherwise, of
25 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
26 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
27 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
28 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named

1 Defendants is responsible for the wrongful acts alleged herein and is therefore liable to Plaintiff as alleged
2 hereinafter.

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

9 8. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
10 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit
11 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
12 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code
13 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and
14 each of them, including those defendants named as DOES 1-20, and each of them, formed and executed
15 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,
16 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and
17 actually causing Plaintiff harm.

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

21
22 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

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

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

1 a. Employer is completely dominated and controlled by DOES 1-20, who personally
2 committed the frauds and violated the laws as set forth in this complaint, and who have hidden and
3 currently hide behind Defendants to perpetrate frauds, circumvent statutes, or accomplish some other
4 wrongful or inequitable purpose.

5 b. Employer and DOES 1-20 derive actual and significant monetary benefits by and
6 through one another's unlawful conduct, and by using one another as the funding source for their own
7 personal expenditures.

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

11 d. Employer does not comply with all requisite corporate formalities to maintain a
12 legal and separate corporate existence.

13 e. The business affairs of Employer and DOES 1-20 are, and at all times relevant
14 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
15 inextricable confusion. Employer is, and at all times relevant hereto was, used by one another and DOES
16 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and were, the
17 alter ego of one another and DOES 1-20. The recognition of the separate existence of Defendants would
18 not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff
19 for violations of the Government Code and other statutory violations. The corporate existence of
20 Employer and DOES 1-20 should be disregarded in equity and for the ends of justice because such
21 disregard is necessary to avoid fraud and injustice to Plaintiff herein.

22 12. Accordingly, Employer constitutes the alter ego of DOES 1-20, and the fiction of their
23 separate corporate existence must be disregarded.

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

3 14. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
4 between DOES 1-20, Employer, or any of them, (1) there is an express or implied agreement of
5 assumption pursuant to which Employer and/or DOES 1-20 agreed to be liable for the debts of the other
6 Defendants, (2) the transaction between Employer and/or DOES 1-20 and the other Defendants amounts
7 to a consolidation or merger of the two corporations, (3) Employer and/or DOES 1-20 are a mere
8 continuation of the other Defendants, or (4) the transfer of assets to Employer and/or DOES 1-20 is for
9 the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employer and/or DOES
10 1-20 are the successors of one or more of the other Defendants and are liable on that basis.

11
12 **FACTUAL ALLEGATIONS**

13 15. In or around January 2011, Employers hired Plaintiff to work as a Janitor. Plaintiff was
14 and is a full-time, non-exempt employee, who performs and performed all of his job duties satisfactorily.

15 16. Between December 1, 2016 and December 31, 2017, Plaintiff's hourly wage rate was
16 \$12.00. From January 1, 2018 to December 31, 2018, Plaintiff's hourly wage rate was \$15.40. From
17 January 1, 2019 to December 16, 2019, Plaintiff's hourly wage rate was \$14.55. During these time
18 periods, Plaintiff's fixed schedule was five days per week, Monday through Friday, for approximately 9
19 hours per day.

20 17. Plaintiff worked approximately 5 hours each week, for which Plaintiff received no wages
21 at all, not Plaintiff's hourly wage rate, or even the requisite minimum wage. These hours should have
22 been classified as overtime hours and also paid at the appropriate overtime rate as Plaintiff worked in
23 excess of 8 hours on each of these days.

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

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

1 worked. One or more of Plaintiff's 30-minute meal periods were not provided or interrupted
2 approximately 2 times per month.

3
4 **FIRST CAUSE OF ACTION**
5 **FOR FAILURE TO PAY WAGES DUE**
6 **LABOR CODE §§201, 1182.12, 1194, 1194.2**
7 **AGAINST ALL DEFENDANTS**

8 20. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
9 though set forth in full herein.

10 21. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
11 required by 8 Code of Regulations §11050, as set forth hereinabove. As alleged herein, Defendants
12 routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

13 22. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
14 Code of Regulations §11050, and Industrial Welfare Commission Order No. 5-2001.

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

18 24. Labor Code §558(a) provides that any person acting on behalf of an employer who
19 violates, or causes to be violated, any statute or provision regulating hours and days of work in any order
20 of the Industrial Welfare Commission pay a civil penalty in the amount of \$50.00 for each underpaid
21 employee for each pay period in which the employee was underpaid in addition to an amount sufficient
22 to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting
23 on behalf of an employer is liable in the amount of \$100.00 for each underpaid employee for each pay
24 period for which the employee was underpaid in addition to an amount sufficient to recover the underpaid
25 wages.

26 25. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated
27 above based upon Defendants' underpayment of minimum and overtime wages. Within the one year
28 immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code

1 §558 on 2 pay periods, the first of which Defendants are penalized \$50.00, and the remainder of which
2 Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties of \$150.00.

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4 **SECOND CAUSE OF ACTION**
5 **FOR FAILURE TO PAY MINIMUM WAGES**
6 **LABOR CODE §§1182.12, 1194, 1194.2, 1197**
7 **AGAINST ALL DEFENDANTS**

8 26. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
9 though set forth in full herein.

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

14 28. At all relevant times, Employers failed and refused to pay Plaintiff the legal minimum
15 wage in the State of California, as set forth in Labor Code §1182.12.

16 29. At all relevant times, Employers employed 26 or more employees.

17 30. Defendants failed to pay Plaintiff the requisite minimum wage in each of the following
18 ways in the four years immediately preceding the filing of this complaint:

19 a. From December 1, 2016 to June 30, 2017, Plaintiff worked approximately 5 hours
20 per week without getting paid anything. Therefore, Plaintiff is owed \$1,575.00 calculated at 5 hours per
21 week for 30 weeks, at \$10.50 per hour.

22 b. From July 1, 2017, to June 30, 2018, Plaintiff worked approximately 5 hours per
23 week without getting paid anything. Therefore, Plaintiff is owed \$3,120.00 calculated at 5 hours per week
24 for 52 weeks, at \$12.00 per hour.

25 c. From July 1, 2018, to June 30, 2019, Plaintiff worked approximately 5 hours per
26 week without getting paid anything. Therefore, Plaintiff is owed \$3,445.00 calculated at 5 hours per week
27 for 52 weeks, at \$13.25 per hour.

1 d. From July 1, 2019, to December 16, 2019, Plaintiff worked approximately 5 hours
2 per week without getting paid anything. Therefore, Plaintiff is owed \$1,710.00 calculated at 5 hours per
3 week for 24 weeks, at \$14.25 per hour

4 31. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum
5 wages in the amount of \$9,850.00.

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

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

12 34. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
13 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
14 additional \$9,850.00, plus interest thereon.

15
16 **THIRD CAUSE OF ACTION**
17 **FOR FAILURE TO PAY OVERTIME COMPENSATION**
18 **LABOR CODE §§510, 1194**
19 **AGAINST ALL DEFENDANTS**

20 35. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
21 though set forth in full herein.

22 36. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
23 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
24 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
25 hours in a single day. It also requires employers to pay their non-exempt employees overtime
26 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
27 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
28 consecutive day of work.

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

3 38. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
4 compensation required by Labor Code §510, 8 Code of Regulations §11050, and Industrial Welfare
5 Commission Order No. 5-2001.

6 39. In the past four years, Plaintiff worked 5 hours of overtime each week, all of which should
7 have been paid at 1.5 times Plaintiff's regularly hour wage rate at that time. Defendants failed to pay
8 Plaintiff the requisite overtime wages in each of the following ways in the four years immediately
9 preceding the filing of this complaint:

10 a. From approximately December 1, 2016 to June 30, 2017, Plaintiff's hourly
11 overtime rate was \$18.00. During this time period, Plaintiff worked an average of 5 hours of overtime
12 each week, for 30 weeks, or 150 hours, but did not receive any wages for these hours at all. Therefore,
13 less the minimum wage portion of \$10.50 per hour which Plaintiff has already claimed in the preceding
14 cause of action, Plaintiff is owed \$7.50 for each of those hours, totaling \$1,125.00.

15 b. From approximately July 1, 2017 to December 31, 2017, Plaintiff's hourly
16 overtime rate was \$18.00. During this time period, Plaintiff worked an average of 5 hours of overtime
17 each week, for 26 weeks, or 130 hours, but did not receive any wages for these hours at all. Therefore,
18 less the minimum wage portion of \$12.00 per hour which Plaintiff has already claimed in the preceding
19 cause of action, Plaintiff is owed \$6.00 for each of those hours, totaling \$780.00.

20 c. From approximately January 1, 2018 to June 30, 2018, Plaintiff's hourly overtime
21 rate was \$23.10. During this time period, Plaintiff worked an average of 5 hours of overtime each week,
22 for 26 weeks, or 130 hours, but did not receive any wages for these hours at all. Therefore, less the
23 minimum wage portion of \$12.00 per hour which Plaintiff has already claimed in the preceding cause of
24 action, Plaintiff is owed \$11.10 for each of those hours, totaling \$1,443.00.

25 d. From approximately July 1, 2018 to December 31, 2018, Plaintiff's hourly
26 overtime rate was \$23.10. During this time period, Plaintiff worked an average of 5 hours of overtime
27 each week, for 26 weeks, or 130 hours, but did not receive any wages for these hours at all. Therefore,
28

1 less the minimum wage portion of \$13.25 per hour which Plaintiff has already claimed in the preceding
2 cause of action, Plaintiff is owed \$9.85 for each of those hours, totaling \$1,280.50.

3 e. From approximately January 1, 2019 to June 30, 2019, Plaintiff's hourly overtime
4 rate was \$21.825. During this time period, Plaintiff worked an average of 5 hours of overtime each week,
5 for 26 weeks, or 130 hours, but did not receive any wages for these hours at all. Therefore, less the
6 minimum wage portion of \$13.25 per hour which Plaintiff has already claimed in the preceding cause of
7 action, Plaintiff is owed \$8.575 for each of those hours, totaling \$1,114.75.

8 f. From approximately July 1, 2019 to December 16, 2019, Plaintiff's hourly
9 overtime rate was \$21.85. During this time period, Plaintiff worked an average of 5 hours of overtime
10 each week, for 24 weeks, or 120 hours, but did not receive any wages for these hours at all. Therefore,
11 less the minimum wage portion of \$14.25 per hour which Plaintiff has already claimed in the preceding
12 cause of action, Plaintiff is owed \$7.575 for each of those hours, totaling \$909.00.

13 40. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
14 Code §510, 8 Code Regulations §11050, and Industrial Welfare Commission Order No. 5-2001.

15 41. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
16 of \$6,652.25, above and beyond the minimum wages sought in the preceding cause of action for these
17 same hours.

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

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22
23 **FOURTH CAUSE OF ACTION**
24 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS**
25 **LABOR CODE §§226.7, 512**
26 **AGAINST ALL DEFENDANTS**

27 43. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
28 though set forth in full herein.

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

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

6 46. In the past four years, Plaintiff regularly worked in excess of five hours per day, and was
7 thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on each
8 day of work.

9 47. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
10 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the
11 applicable sections of 8 Code of Regulations §11050 and Industrial Welfare Commission Order No. 5-
12 2001, as follows:

13 48. From approximately December 1, 2016 to December 16, 2019, Plaintiff's statutory 30-
14 minute meal periods were interrupted and cut short approximately 2 times per month for 36 months, or
15 on approximately 72 days. During this same time period, Plaintiff was deprived of one or more of
16 Plaintiff's statutory 10-minute rest periods on approximately 5 days per week for 158 weeks, or on
17 approximately 790 days.

18 49. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8
19 Code of Regulations §11050 and Industrial Welfare Commission Order No. 5-2001. Consequently,
20 Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage,
21 whichever is greater, for each day that Plaintiff was denied such meal periods, and is owed one hour of
22 pay at Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day
23 that Plaintiff was denied such rest periods, calculated as follows:

24 a. From approximately December 1, 2016 to December 31, 2017, Defendants failed
25 to provide Plaintiff with an uninterrupted statutory meal period on approximately 26 separate days.
26 Consequently, Plaintiff is owed one hour of pay at \$12.00 for each day, or \$312.00, plus interest thereon,
27 for unpaid interrupted meal periods. During this same time period, Defendants failed to provide Plaintiff
28 with the statutory rest period on approximately 280 separate days. Consequently, Plaintiff is owed one

1 hour of pay at \$12.00 for each day, or \$3,360.00, plus interest thereon, for unpaid rest periods. Thus, the
2 total missed meal and rest period compensation owing Plaintiff for this time period is \$3,672.00.

3 b. From approximately January 1, 2018 to December 31, 2018, Defendants failed to
4 provide Plaintiff with an uninterrupted statutory meal period on approximately 24 separate days.
5 Consequently, Plaintiff is owed one hour of pay at \$15.40 for each day, or \$369.60, plus interest thereon,
6 for unpaid interrupted meal periods. During this same time period, Defendants failed to provide Plaintiff
7 with the statutory rest period on approximately 260 separate days. Consequently, Plaintiff is owed one
8 hour of pay at \$15.40 for each day, or \$4,004.00, plus interest thereon, for unpaid rest periods. Thus, the
9 total missed meal and rest period compensation owing Plaintiff for this time period is \$4,373.60.

10 c. From approximately January 1, 2019, to December 16, 2019, Defendants failed to
11 provide Plaintiff with an uninterrupted statutory meal period on approximately 12 separate days.
12 Consequently, Plaintiff is owed one hour of pay at \$14.55 for each day, or \$174.60, plus interest thereon,
13 for unpaid interrupted meal periods. During this same time period, Defendants failed to provide Plaintiff
14 with the statutory rest period on approximately 250 separate days. Consequently, Plaintiff is owed one
15 hour of pay at \$14.55 for each day, or \$3,637.50, plus interest thereon, for unpaid rest periods. Thus, the
16 total missed meal and rest period compensation owing Plaintiff for this time period is \$3,812.10.

17 50. Thus, Plaintiff is owed a total of \$11,857.70, plus interest thereon, for unpaid meal and
18 rest periods for this time period.

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

21 52. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
22 such amounts in the combined amount of \$11,857.70, pursuant to Labor Code §226.7(b), plus interest
23 thereon and costs of suit.

FIFTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS
LABOR CODE §§226 ET SEQ.
AGAINST ALL DEFENDANTS

53. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

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

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

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

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

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

9 59. Plaintiff was paid on a weekly basis, and therefore Defendants violated Labor Code §226
10 approximately 2 times during the one year preceding the filing of this complaint. Consequently,
11 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
12 amount of \$4,000.00, whichever is greater.

13 60. In addition thereto, for Defendants' 2 violations, Defendants are penalized \$250.00 for the
14 first violation, and the remainder of which Defendants are penalized \$1,000.00 each, for a total due in
15 Labor Code §226.3 penalties of \$1,250.00.

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

19
20 **SIXTH CAUSE OF ACTION**
21 **FOR WAITING TIME PENALTIES**
22 **LABOR CODE §§201-203**
23 **AGAINST ALL DEFENDANTS**

24 62. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
25 though set forth in full herein.

26 63. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
27 other compensation due immediately upon termination or within 72 hours of resignation, as required.
28 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest

1 period compensation that Defendants should have paid, but did not pay to Plaintiff during the term of
2 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-
3 203.

4 64. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
5 203.

6 65. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
7 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and
8 more than \$4,146.75 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
9 \$138.225, inclusive of overtime.

10 66. Based on Defendants' conduct as alleged herein, Defendants are liable for \$4,146.75 in
11 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
12 fees and costs.

13
14 **SEVENTH CAUSE OF ACTION**
15 **FOR PRIVATE ATTORNEY GENERAL ACT**
16 **LABOR CODE §2699**
17 **AGAINST ALL DEFENDANTS**

18 67. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
19 though set forth in full herein.

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

23 69. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and
24 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as
25 previously pleaded in this Complaint.

26 70. On September 18, 2020, more than 63 calendar days before filing this Complaint, Plaintiff
27 provided written notice by certified mail to the Labor and Workforce Development Agency and to
28 Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby

1 satisfying the requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201,
2 202, 203, 226, 226.7, 226.8, 510, 512, 1174, 1182.12, 1194, 1194.2, and 1197, each of which is
3 enumerated among the serious violations set forth in Labor Code §2699.5.

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

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

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

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

16
17 **EIGHTH CAUSE OF ACTION**

18 **FOR UNFAIR COMPETITION**

19 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**

20 **AGAINST ALL DEFENDANTS**

21 75. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
22 though set forth in full herein.

23 76. Defendants' violations of 8 Code of Regulations §11050, Industrial Welfare Commission
24 Order No. 5-2001, Labor Code §§201-203, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5,
25 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay
26 minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants'
27 failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation
28 due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete

1 and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business
2 & Professions Code §§17200, et seq.

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

6 78. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent
7 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore
8 to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from
9 Plaintiff.

10
11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiff seeks judgment against Defendants and each of them, in an amount
13 according to proof as follows:

14 1. For a money judgment representing compensatory damages including lost wages,
15 earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,
16 together with interest on these amounts; for other special damages; and for general damages for mental
17 pain and anguish and emotional distress and loss of earning capacity;

18 2. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12,
19 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 5-2001, in the amount of no less than
20 \$9,850.00;

21 3. For liquidated damages pursuant to Labor Code §1194.2 in the amount of \$9,850.00, plus
22 interest;

23 4. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194,
24 Industrial Welfare Commission Order No. 5-2001, and 8 Code of Regulations §11050, in the amount of
25 no less than \$6,652.25;

26 5. For statutory penalties or damages pursuant to Labor Code §558 in the amount of no less
27 than \$150.00;

6. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512, in the amount of no less than \$11,857.70;

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

8. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no less than \$1,250.00;

9. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less than \$4,146.75;

10. For statutory penalties pursuant to Labor Code §2699(f), in an amount according to proof on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants' aggrieved employees;

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

WHEREFORE, Plaintiff further seeks judgment against Defendants, and each of them, in an amount according to proof, as follows:

12. For injunctive relief compelling Defendants to report to federal and state authorities wages earned by Plaintiff, and other employees, and pay all state and federal taxes owing, employer matching funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all this in an amount according to the proof;

13. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful conduct and failure to pay wages and other compensation in accordance with the law;

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

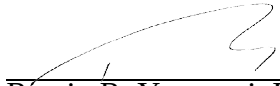
15. For post-judgment interest; and

16. For any other relief that is just and proper.

DATED: December 1, 2020

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

By:


Ramin R. Younessi, Esq.
Attorney for Plaintiff
JUAN CARRETO

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DATED: December 1, 2020

LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION

By:

Ramin R. Younessi, Esq.
Attorney for Plaintiff
JUAN CARRETO