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Superior Court of California
County of Los Angeles

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6 **GASPAR BARAJAS HERNANDEZ,**
on behalf of himself and all others similarly situated
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT
10

11 GASPAR BARAJAS HERNANDEZ, on)
behalf of himself and all others similarly)
12 situated,)

13 Plaintiffs,)

14 v.)

15 KONOIKE-PACIFIC CALIFORNIA, INC., a)
16 California corporation; KONOIKE-E)
STREET, INC., a California corporation;)
17 POWER STAFF, a business entity form)
unknown; and DOES 1 through 100, Inclusive)

18 Defendants.)
19)
20)
21)
22)
23)
24)
25)

Case No.: **20STCV35421**

CLASS ACTION COMPLAINT FOR
DAMAGES, AND RESTITUTION

1. FAILURE TO PAY OVERTIME
WAGES;

2. FAILURE TO PAY MINIMUM
WAGES;

3. FAILURE TO PROVIDE MEAL
PERIODS;

4. FAILURE TO PROVIDE REST
PERIODS;

5. FAILURE TO PAY ALL WAGES
UPON TERMINATION;

6. FAILURE TO PROVIDE
ACCURATE WAGE
STATEMENTS; and

7. UNFAIR COMPETITION

DEMAND FOR JURY TRIAL

26 COMES NOW plaintiff GASPAR BARAJAS HERNANDEZ (hereinafter "Mr. Barajas")
27 and/or "Plaintiff") on behalf of himself and all others similarly situated, and alleges as follows:
28 ///

1 **GENERAL ALLEGATIONS**

2 **INTRODUCTION**

3 1. This is a Class Action, pursuant to California Code of Civil Procedure §382, on
4 behalf of Plaintiff and all other current and former similarly situated employees employed by or
5 formerly employed by KONOIKE-PACIFIC CALIFORNIA, INC., KONOIKE-E STREET, INC.,
6 POWER STAFF, and any subsidiaries or affiliated companies (hereinafter referred to as
7 "Defendants"), within the State of California.

8 2. For at least four (4) years prior to the filing of this action and through to the present
9 Defendants have had a consistent policy of failing to pay wages, including overtime wages, to
10 Plaintiff and other non-exempt employees in the State of California in violation of California state
11 wage and hour laws as a result of, including but not limited to, not paying overtime wages when
12 working more than 8 hours in a workday and/or working more than 40 hours in a workweek and
13 unevenly rounding time worked which in the aggregate deprived employees of earned wages.

14 3. For at least four (4) years prior to the filing of this action and continuing to the
15 present, Defendants have had a consistent policy of failing to provide Plaintiff and other similarly
16 situated employees or former employees within the State of California a thirty (30) minute
17 uninterrupted meal period for days on which the employees worked more than five (5) hours in a
18 workday and a second thirty (30) minute uninterrupted meal periods for days on which the
19 employees worked in excess of ten (10) hours in a work day, and failing to provide compensation
20 for such unprovided meal periods as required by California wage and hour laws.

21 4. For at least for (4) years prior to the filing of this action and continuing to the
22 present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly
23 situated employees or former employees within the State of California rest periods of at least ten
24 (10) minutes per four (4) hours worked or major fraction thereof and failing to provide
25 compensation for such unprovided rest periods as required by California wage and hour laws.

26 5. Plaintiff, on behalf of himself and all other similarly situated employees, brings this
27 action pursuant to, including but not limited to, California Labor Code §§201, 202, 203, 226,
28 226.7, 510, 512, 1194, 1194.2, 1197, and California Code of Regulations, Title 8, §11070, seeking

overtime and minimum wages, premium wages for missed meal and rest periods, penalties, and reasonable attorneys' fees and costs.

6. Plaintiff, on behalf of himself and all other similarly situated employees, pursuant to California Business & Professions Code §§17200-17208 also seeks all monies owed but withheld and retained by Defendants to which Plaintiff and members of the Class are entitled.

PARTIES

A. Plaintiff

7. Venue as to each defendant is proper in this judicial district, pursuant to California Code of Civil Procedure §395. Defendants operate and do business in Los Angeles County, California, and each defendant is within the jurisdiction of this court for service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and those similarly situated within Los Angeles County and the State of California. Defendants employ numerous Class Members in Los Angeles County and the State of California.

8. Plaintiff, GASPAR BARAJAS HERNANDEZ, is a resident of California. At all relevant times herein, he has been employed by Defendants as a non-exempt employee with the position of forklift driver in Los Angeles County, California.

B. Defendants

9. Defendant, KONOIKE-PACIFIC CALIFORNIA, INC., a California corporation, provides cold storage services. KONOIKE-PACIFIC CALIFORNIA, INC. employed Plaintiff and similarly situated persons within the State of California.

10. Defendant, KONOIKE-E STREET, INC., a California corporation, provides cold storage services. KONOIKE-E STREET, INC. employed Plaintiff and similarly situated persons within the State of California.

11. Defendant, POWER STAFF, a business entity form unknown, provides staffing services. POWER STAFF, employed Plaintiff and similarly situated persons within the State of California.

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12. Plaintiff is informed and believes that defendants KONOIKE-PACIFIC CALIFORNIA, INC., KONOIKE-E STREET, INC., and POWER STAFF ("Defendants") are joint employers in that they both employed Plaintiff and similarly situated employees at the same time and were operating as a joint enterprise at all relevant time periods.

13. Plaintiff is informed and believes, and based thereon alleges that pursuant to Labor Code §2810.3(b) Defendants share the civil legal responsibility and civil liability for the alleged Labor Code violations.

14. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure §474. Plaintiff is informed and believes, and based thereon alleges, that each of the defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter as DOES when such identities become known.

15. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respect 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 defendants.

FACTUAL BACKGROUND

16. Plaintiff and other similarly situated employees have not been paid, during the relevant liability periods, wages for all time worked, including overtime wages, as a result of, including but not limited to, not paying overtime wages when working more than 8 hours in a workday and/or working more than 40 hours in a workweek and unevenly rounding time worked which in the aggregate deprived employees of earned wages.

17. Defendants have had a consistent policy of failing to provide Plaintiff and other similarly situated employees or former employees within the State of California a thirty (30) minute uninterrupted meal period for days on which the employees worked more than five (5) hours in a workday and a second thirty (30) minute uninterrupted meal periods for days on which

1 the employees worked in excess of ten (10) hours in a work day, and failing to provide
2 compensation for such unprovided meal periods.

3 18. Defendants have had a consistent policy of failing to provide Plaintiff and similarly
4 situated employees or former employees within the State of California rest periods of at least ten
5 (10) minutes per four (4) hours worked or major fraction thereof and failing to provide
6 compensation for such unprovided rest periods as required by California wage and hour laws.

7 19. Plaintiff and other similarly situated employees or former employees at all times
8 pertinent hereto were not exempt from the overtime, meal break and rest break provisions of
9 California law, and the implementing rules and regulations of the IWC California Wage Orders.

10 20. Defendants have failed to comply with Labor Code §226(a) by not providing
11 itemized wage statements accurately showing, including but not limited to, total hours worked
12 during the pay period, all earned wages, including overtime wages, pay due and owing for meal
13 and rest break law violations, and the address of employing entity.

14 21. At the time Plaintiff's employment and the employment of other former employees
15 of Defendants ended, Defendants willfully failed to pay overtime wages, minimum wages, and one
16 hour of wages in lieu of each unprovided or interrupted meal period and unprovided rest period.

17 CLASS ACTION ALLEGATIONS

18 22. Plaintiff brings this action on behalf of himself, and all others similarly situated,
19 as a class action pursuant to California Code of Civil Procedure §382. Plaintiff seeks to represent
20 five Classes composed of and defined as follows:

21 Non-Exempt Employee Class

22 All current and former employees of Defendants within the State of California at
23 any time commencing four (4) years preceding the filing of Plaintiff's complaint up
24 until the time that notice of the class action is provided to the class (collectively
referred to as "Non-Exempt Employee Class").

25 Meal Period Class

26 All current and former employees of Defendants within the State of California at
27 any time commencing four (4) years preceding the filing of Plaintiff's complaint up
until the time that notice of the class action is provided to the class, who worked
shifts of 5 hours or more (collectively referred to as "Meal Period Class").

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1 **Rest Period Class**

2 All current and former employees of Defendants within the State of California at
3 any time commencing four (4) years preceding the filing of Plaintiff's complaint up
4 until the time that notice of the class action is provided to the class, who worked
5 shifts of 4 hours or more (collectively referred to as "Rest Period Class").

6 **Late Pay Class**

7 All former employees of Defendants within the State of California at any time
8 commencing three (3) years preceding the filing of Plaintiff's complaint up until the
9 time that notice of the class action is provided to the class, who did not receive all
10 their wages upon termination and or resignation of their employment (collectively
11 referred to as "Late Pay Class").

12 **Wage Statement Class**

13 All current and former employees of Defendants within the State
14 of California, to whom, at any time commencing one (1) year
15 preceding the filing of Plaintiff's complaint up until the time that
16 notice of the class action is provided to the class, were provided with
17 wage statements (collectively referred to as "Wage Statement Class").

18 23. Plaintiff reserves the right under California Rules of Court Rule 3.765(b), to amend
19 or modify the class description with greater specificity or further division into subclasses or
20 limitation to particular issues.

21 24. This action has been brought and may properly be maintained as a class action
22 under the provisions of California Code of Civil Procedure §382 because there is a well-defined
23 community of interest in the litigation and the proposed Class is easily ascertainable.

24 A. **Numerosity**

25 25. The potential members of the Class as defined are so numerous that joinder of all
26 the members of the Class is impracticable. While the precise number of Class Members has not
27 been determined at this time, Plaintiff is informed and believes that there are over fifty Class
28 Members employed by Defendants within the State of California.

29 26. Accounting for employee turnover during the relevant periods necessarily increases
30 this number substantially. Plaintiff alleges Defendants' employment records would provide
31 information as to the number and location of all Class Members. Joinder of all members of the
32 proposed Class is not practicable.

33 B. **Commonality**

34 27. There are questions of law and fact common to Class Members. These common

1 questions include, but are not limited to:

- 2 (1) Did Defendants violate Labor Code §1194 by not compensating Class
- 3 Members overtime wages?
- 4 (2) Did Defendants violate Labor Code §§ 1194 and 1197 by not paying Class
- 5 Members minimum wages for all hours worked?
- 6 (3) Did Defendants violate Labor Code § 512 by not providing Class Members
- 7 with meal periods?
- 8 (4) Did Defendants violate Labor Code § 226.7 by not providing Class
- 9 Members additional wages for missed or interrupted meal periods?
- 10 (5) Did Defendants violate Labor Code §226.7 by not providing Class Members
- 11 additional wages for missed rest periods?
- 12 (6) Did Defendants violate Labor Code §§ 201 and 202 by failing to pay Class
- 13 Members upon termination or resignation all wages earned?
- 14 (7) Are Defendants liable to Class Members for penalty wages under Labor
- 15 Code § 203?
- 16 (8) Did Defendants violate Labor Code § 226(a) by not furnishing Class
- 17 Members with accurate wage statements?
- 18 (9) Did Defendants violate the Unfair Competition Law, Business and
- 19 Professions Code §17200, *et seq.*, by its unlawful practices as alleged
- 20 herein?
- 21 (10) Are Class Members entitled to restitution of penalty wages under Business
- 22 and Professions Code § 17203?
- 23 (11) Are Class Members entitled to costs and attorneys' fees?
- 24 (12) Are Class Members entitled to interest?

25 **C. Typicality**

26 28. The claims of Plaintiff herein alleged are typical of those claims which could be
27 alleged by any member of the classes, and the relief sought is typical of the relief which would be
28 sought by each of the members of the classes in separate actions. Plaintiff and all members of the

1 Classes sustained injuries and damages arising out of and caused by Defendants' common course of
2 conduct in violation of laws and regulations that have the force and effect of law and statutes as
3 alleged herein.

4 **D. Adequacy of Representation**

5 29. Plaintiff will fairly and adequately represent and protect the interests of the
6 members of the Classes. Counsel who represents Plaintiff is competent and experienced in
7 litigating wage and hour class actions.

8 **E. Superiority of Class Action**

9 30. A class action is superior to other available means for the fair and efficient
10 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
11 questions of law and fact common to the Class predominate over any questions affecting only
12 individual members of the Class. Each member of the Class has been damaged and is entitled to
13 recovery by reason of Defendants' illegal policy and/or practice of failing to pay overtime wages,
14 failing to pay minimum wages, failing to provide meal and rest breaks or compensation in lieu
15 thereof, failing to provide accurate itemized wage statements, and failing to pay all wages due upon
16 termination and/or resignation.

17 31. Class action treatment will allow those similarly situated persons to litigate their
18 claims in the manner that is most efficient and economical for the parties and the judicial system.
19 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
20 action that would preclude its maintenance as a class action.

21 **FIRST CAUSE OF ACTION**

22 **FAILURE TO PAY OVERTIME WAGES**

23 **(By Plaintiff and the Class Against All Defendants)**

24 32. Plaintiff realleges and incorporates by reference all of the allegations contained in
25 the preceding paragraphs of this Complaint as though fully set forth herein.

26 33. At all times relevant to this complaint, California Labor Code §510 was in effect
27 and provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours
28 in one workday and any work in excess of forty hours in any one workweek . . . shall be

1 improperly rounding time worked, Defendants failed to pay Plaintiff and members of the Non-
2 Exempt Employee Class minimum wages for all hours worked in violation of Labor Code §1197
3 and applicable Wage Orders. As a result of Defendants' unlawful conduct, Plaintiff and members
4 of the Non-Exempt Employee Class have suffered damages in an amount, subject to proof, to the
5 extent they were not paid minimum wages for all hours worked.

6 41. Pursuant to Labor Code §§ 1194 and 1194.2 Plaintiff and members of the Non-
7 Exempt Employee Class are entitled to recover the full amount of unpaid minimum wages,
8 penalties, prejudgment interest, liquidated damages, reasonable attorneys' fees, and costs of suit.

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO PROVIDE MEAL PERIODS**

11 **(By Plaintiff and the Class Against All Defendants)**

12 42. Plaintiff realleges and incorporates by reference all of the allegations contained in
13 the preceding paragraphs of this Complaint as though fully set forth herein.

14 43. Pursuant to Labor Code §512, no employer shall employ an employee for a work
15 period of more than five (5) hours without a meal break of not less than thirty (30) minutes in
16 which the employee is relieved of all of his or her duties. Furthermore no employer shall employ
17 an employee for a work period of more than ten (10) hours per day without providing the employee
18 with a second meal period of not less than thirty (30) minutes in which the employee is relieved of
19 all of his or her duties. Plaintiff and other members of the Meal Period Class were not provided
20 with requisite meal periods as contemplated under the law.

21 44. Pursuant to Labor Code §226.7, if an employer fails to provide an employee with a
22 meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
23 Commission, the employer shall pay the employee one additional hour of pay at the employee's
24 regular rate of compensation for each work day that the meal period or rest period is not provided.

25 45. By their failure to provide Plaintiff and members of the Meal Period Class with the
26 meal periods contemplated by California law, and failing to provide compensation for such
27 unprovided meal periods, as alleged above, Defendants willfully violated the provisions of Labor
28 Code §512 and applicable Wage Orders.

46. As a result of Defendants' unlawful conduct Plaintiff and the other members of the Meal Period Class have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed meal periods.

47. Plaintiff and the other members of the Meal Period Class are entitled to recover the full amount of their unpaid additional pay for missed meal periods. Pursuant to Code of Civil Procedure §1021.5, Plaintiff and the other members of the Meal Period Class are entitled to recover reasonable attorneys' fees and costs of suit.

48. Pursuant to Civil Code § 3287(a), Plaintiff and other members of the Meal Period Class are entitled to recover prejudgment interest on the additional pay owed for missed meal periods.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

(By Plaintiff and the Class Against All Defendants)

49. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

50. California law and applicable Wage Orders require that employers “authorize and permit” employees to take paid 10 minute rest periods in about the middle of each 4-hour work period “or major fraction thereof.” Accordingly, employees who work shifts of 3 ½ to 6 hours must be provided 10 minutes of paid rest period, employees who work shifts of more than 6 and up to 10 hours must be provided with 20 minutes of paid rest period, and employees who work shifts of more than 10 hours must be provided 30 minutes of paid rest period. Plaintiff and other members of the Rest Period Class were not provided with requisite rest periods as contemplated under the law.

51. Pursuant to Labor Code §226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period or rest period is not provided.

52. By their failure to provide Plaintiff and other members of the Rest Period Class

1 with the rest periods contemplated by California law, and failing to provide compensation for such
2 unprovided rest periods, as alleged above, Defendants willfully violated the provisions of Labor
3 Code §226.7 and applicable Wage Orders.

4 53. As a result of Defendants' unlawful conduct Plaintiff and the other members of the
5 Rest Period Class have suffered damages in an amount, subject to proof, to the extent they were not
6 paid additional pay owed for missed rest periods.

7 54. Plaintiff and the other members of the Rest Period Class are entitled to recover the
8 full amount of their unpaid additional pay for missed rest periods. Pursuant to Code of Civil
9 Procedure §1021.5, Plaintiff and the other members of the Rest Period Class are entitled to recover
10 reasonable attorneys' fees and costs of suit.

11 55. Pursuant to Civil Code § 3287(a), Plaintiff and other members of the Rest Period
12 Class are entitled to recover prejudgment interest on the additional pay owed for missed rest
13 periods.

14 **FIFTH CAUSE OF ACTION**

15 **FAILURE TO PAY ALL WAGES UPON TERMINATION**

16 **(By Plaintiff and the Class Against All Defendants)**

17 56. Plaintiff realleges and incorporates by reference all of the allegations contained in
18 the preceding paragraphs of this Complaint as though fully set forth herein.

19 57. At all relevant times, Plaintiff and other members of the Late Pay Class were
20 employees of Defendants covered by Labor Code §§ 201 and 202.

21 58. Pursuant to Labor Code §§ 201 or 202, Plaintiff and other members of the Late Pay
22 Class were entitled upon termination to timely payment of all wages earned and unpaid prior to
23 termination. Discharged employers were entitled to payment of all wages earned and unpaid prior
24 to discharge immediately upon termination. Employees who resigned were entitled to payment of
25 all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
26 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
27 unpaid at the time of resignation.

28 ///

1 59. Defendants failed to pay Plaintiff and other members of the Late Pay Class all
2 wages earned and unpaid prior to termination in accordance with Labor Code §§ 201 or 202.
3 Plaintiff and other members of the Late Pay Class are informed and believe and thereon allege that
4 at all relevant times within the applicable limitations period, Defendants had a practice of not
5 paying upon termination, the wages owed to them as a consequence of overtime wages, minimum
6 wages, and meal and rest period violations.

7 60. Defendants' failure to pay Plaintiff and members of the Late Pay Class all wages
8 earned prior to termination in accordance with Labor Code §§ 201 and 202 was wilful. Defendants
9 had the ability to pay all wages earned by Plaintiff and other members of the Late Pay Class at the
10 time of termination in accordance with Labor Code §§ 201 and 202, but intentionally adopted
11 policies or practices incompatible with the requirements of Labor Code §§ 201 and 202.

12 61. Pursuant to Labor Code §§ 201 and 202 Plaintiff and other members of the Late
13 Pay Class are entitled to all wages earned prior to termination that Defendants failed to pay them.

14 62. Pursuant to Labor Code § 203, Plaintiff and other members of the Late Pay Class
15 are entitled to penalty wages from the date their earned and unpaid wages were due, upon
16 termination, until paid, up to a maximum of 30 days.

17 63. As a result of Defendants' unlawful conduct Plaintiff and other members of the
18 Late Pay Class have suffered damages in an amount subject to proof, to the extent they were not
19 paid for all wages earned prior to termination.

20 64. As a result of Defendants' unlawful conduct Plaintiff and the other members of the
21 Late Pay Class have suffered damages in an amount subject to proof, to the extent they were not
22 paid all penalty wages owed under Labor Code § 203.

23 65. Pursuant to Labor Code §§ 218 and 218.5, Plaintiff and the other members of the
24 Late Pay Class are entitled to recover the full amount of their unpaid wages, and penalty wages
25 under Labor Code § 203, reasonable attorneys' fees, and costs of suit. Pursuant to Labor Code §
26 218.6 or Civil Code § 3287(a), Plaintiff and the other members of the Late Pay Class are entitled to
27 recover prejudgment interest on the amount of their unpaid wages and unpaid penalty wages.

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1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

3 **(By Plaintiff and the Class Against All Defendants)**

4 66. Plaintiff realleges and incorporates by reference all of the allegations contained in
5 the preceding paragraphs of this Complaint as though fully set forth herein.

6 67. At all relevant times, Plaintiff and the other members of the Wage Statement Class
7 were employees of Defendants covered by Labor Code § 226.

8 68. Pursuant to Labor Code § 226(a), Plaintiff and the other members of the Wage
9 Statement Class were entitled to receive, semi-monthly or at the time of each payment of wages, an
10 accurate itemized statement showing gross wages earned, net wages earned, all applicable hourly
11 rates in effect during the pay period and the corresponding number of hours worked at each hourly
12 rate by the employee.

13 69. Defendants failed to provide Plaintiff and the other members of the Wage
14 Statement Class accurate itemized wage statements in accordance with Labor Code § 226(a).

15 70. Plaintiff and the other members of the Wage Statement Class are informed and
16 believe and thereon allege that at all relevant times, Defendants maintained and continue to
17 maintain a policy and practice of issuing wage statements that do not show, including but not
18 limited to, pay due and owing for meal and rest break law violations and payment and hours
19 worked that were not paid at the appropriate hourly rates. Defendants' practices resulted and
20 continue to result in, the issuance of Wage Statements to Plaintiff and other members of the Class
21 that do not comply with the itemization requirements.

22 71. Defendants' failure to provide Plaintiff and other members of the Wage Statement
23 Class with accurate Wage Statements was knowing and intentional. Defendants had the ability to
24 provide Plaintiff and the other members of the Wage Statement Class with accurate Wage
25 Statements, but intentionally provided wage statements that Defendants knew were not accurate.

26 72. As a result of Defendants' unlawful conduct, Plaintiff and the other members of the
27 Wage Statement Class have suffered injury. The absence of accurate information on their wage
28 statements has delayed timely challenge to Defendants' unlawful pay practices, requires discovery

1 and mathematical computations to determine the amount of wages owed, causes difficulty and
2 expense in attempting to reconstruct time and pay records, and led to submission of inaccurate
3 information about wages and amounts deducted from wages to state and federal government
4 agencies.

5 73. Pursuant to Labor Code § 226(e) Plaintiff and other members of the Wage
6 Statement Class are entitled to recover \$50 for the initial pay period during the period in which
7 violation of Labor Code § 226 occurred and \$100 for each violation of Labor Code § 226 in a
8 subsequent pay period, not to exceed an aggregate penalty of \$4,000 per employee.

9 74. Pursuant to Labor Code §§ 226(e) and 226(g), Plaintiff and the other members of
10 the Wage Statement Class are entitled to recover the full amount of penalties due under Labor Code
11 § 226(e) reasonable attorneys' fees and costs of suit.

12 SEVENTH CAUSE OF ACTION

13 UNFAIR COMPETITION

14 **(By Plaintiff and Class Members Against All Defendants)**

15 75. Plaintiff realleges and incorporates by reference all of the allegations contained in
16 the preceding paragraphs of this Complaint as though fully set forth herein.

17 76. The unlawful conduct of Defendants alleged herein constitutes unfair competition
18 within the meaning of Business & Professions Code § 17200. Due to their unlawful business
19 practices in violation of the Labor Code, Defendants have gained a competitive advantage over
20 other comparable companies doing business in the state of California that comply with their
21 obligations to compensate employees in accordance with the Labor Code.

22 77. As a result of Defendants' unfair competition as alleged herein, Plaintiff and
23 similarly situated Class Members have suffered injury in fact and lost money or property. Plaintiff
24 and similarly situated Class Members have been deprived from not being compensated overtime
25 wages, from not being compensated minimum wages, from not being provided with meal and rest
26 breaks or compensation in lieu thereof, from not being paid all wages due upon termination or
27 resignation, and from being provided with inaccurate wage statements.

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78. Pursuant to Business & Professions Code § 17203 Plaintiff and similarly situated Class Members are entitled to restitution of all wages and other monies owed to them under the Labor Code, including interest thereon, in which they had a property interest which Defendants failed to pay them but withheld and retained for themselves. Restitution of the money owed to Plaintiff and similarly situated Class Members is necessary to prevent Defendants from becoming unjustly enriched by their failure to comply with the Labor Code.

79. Plaintiff and similarly situated Class Members are entitled to recover reasonable attorneys' fees in connection with their unfair competition claims pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

PRAYER

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

- A. An order certifying that Plaintiff may pursue his claims against Defendants as a class action on behalf of the Class Members;
- B. An order appointing Plaintiff as Class representative and appointing Plaintiff's counsel as class counsel;
- C. Penalties for inaccurate wage statements under Labor Code §226(e);
- D. Damages for unpaid wages under Labor Code §§201 or 202;
- E. Damages for unpaid penalty wages under Labor Code §203;
- F. Damages for unpaid wages for missed meal periods under Labor Code §226.7;
- G. Damages for unpaid wages for missed rest periods under Labor Code §226.7;
- H. Damages for minimum wages;
- I. Damages for premium wages;
- J. Liquidated damages for unpaid minimum wages;
- K. Damages for unpaid overtime wages under Labor Code §1194;
- L. Restitution under Business and Professions Code §17203;
- M. Pre-judgment interest;
- N. Costs;

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O. Reasonable attorneys' fees; and

P. Such other and further relief as the Court deems just and proper.

DATED: September 14, 2020

THE NOURMAND LAW FIRM, APC

By:



Michael Nourmand, Esq.
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Melissa M. Kurata, Esq.
Attorneys for Plaintiffs