

ON 1/5/2021

By /s/ Mia Marlowe
Deputy Clerk

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behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

HUGO FUENTES HERNANDEZ, on behalf
of himself and all others similarly situated,

Plaintiffs,

v.

TERRA FERMA LANDSCAPES INC., a
California corporation; TERRA FERMA
LANDSCAPES DESIGN, INC., a California
corporation; WILLIAM BRIAN KOCH, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 20CIV04700

[Assigned for all purposes to the Hon. Marie S.
Weiner in Dept. 2]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

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. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO INDEMNIFY;
8. UNFAIR COMPETITION;
9. PENALTIES PER LABOR CODE § 210;
10. PENALTIES PER LABOR CODE § 226.3;
11. VIOLATION OF LABOR CODE § 558;
12. VIOLATION OF LABOR CODE § 1197.1;
and
13. PENALTIES PER LABOR CODE § 2699.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff HUGO FUENTES HERNANDEZ ("Plaintiff"), on behalf of Plaintiff and all others similarly situated, alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is an Amended Class Action, pursuant to Code of Civil Procedure section 382, against TERRA FERMA LANDSCAPES INC., and any of its respective subsidiaries or affiliated companies within the State of California ("TERRA FERMA LANDSCAPES"), TERRA FERMA LANDSCAPES DESIGN, INC. ("TERRA FERMA DESIGN") and WILLIAM BRIAN KOCH, an individual ("KOCH" and with DOES 1 through 100, as further defined below, "Defendants") on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants ("Class Members").

PARTIES

A. Plaintiff

2. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, digging, planting, lifting, and demolition. Plaintiff is informed and believes that Plaintiff worked for Defendants from approximately January of 2020 through approximately July of 2020.

B. Defendants

3. Plaintiff is informed and believes and based thereon alleges that defendant TERRA FERMA LANDSCAPES is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of San Mateo, State of California.

4. Plaintiff is informed and believes and based thereon alleges that defendant TERRA FERMA DESIGN is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of San Mateo, State of California.

5. Plaintiff is informed and believes and based thereon alleges that defendant KOCH

1 is, and at all times relevant hereto was, an individual residing in California, as well as chief executive
2 officer of TERRA FERMA LANDSCAPES, and DOES 1 through 100, as further defined below.
3 Plaintiff is further informed and believes and based thereon alleges that KOCH violated, or caused
4 to be violated, the above-referenced and below-referenced Labor Code provisions in violation of
5 Labor Code section 558.1.

6 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
7 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
8 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
9 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
10 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
11 Plaintiff will seek leave of court to amend this Amended to reflect the true names and capacities of
12 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
13 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
14 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
15 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
16 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
17 include TERRA FERMA LANDSCAPES, TERRA FERMA DESIGN, KOCH, and any of their
18 parent, subsidiary, or affiliated companies within the State of California, as well as DOES 1 through
19 100 identified herein.

20 **JOINT LIABILITY ALLEGATIONS**

21 7. Plaintiff is informed and believes and based thereon alleges that all the times
22 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
23 representative, joint venture or co-conspirator of each of the other defendants, either actually or
24 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
25 employment, joint venture, and conspiracy.

26 8. All of the acts and conduct described herein of each and every corporate defendant
27 was duly authorized, ordered, and directed by the respective and collective defendant corporate
28 employers, and the officers and management-level employees of said corporate employers. In

1 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
2 their said employees, agents, and representatives, and each of them; and upon completion of the
3 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
4 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
5 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
6 aforementioned corporate employees, agents and representatives.

7 9. Plaintiff is further informed and believes and based thereon alleges that KOCH
8 violated, or caused to be violated, the above-referenced and below-referenced Labor Code
9 provisions in violation of Labor Code section 558.1.

10 10. Plaintiff is informed and believes, and based thereon alleges, that there exists such a
11 unity of interest and ownership between Defendants, and each of them, that their individuality and
12 separateness have ceased to exist.

13 11. Plaintiff is informed and believes, and based thereon alleges that despite the
14 formation of the purported corporate existence of TERRA FERMA LANDSCAPES, TERRA
15 FERMA DESIGN, and DOES 1 through 50, inclusive (the "Alter Ego Defendants"), they, and each
16 of them, are one and the same with KOCH and DOES 51 through 100 ("Individual Defendants"),
17 and each of them, due to, but not limited to, the following reasons:

18 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
19 Defendants who personally committed the wrongful and illegal acts and violated the
20 laws as set forth in this Amended Complaint, and who has hidden and currently hide
21 behind the Alter Ego Defendants to perpetrate frauds, circumvent statutes, or
22 accomplish some other wrongful or inequitable purpose;

23 B. The Individual Defendants derive actual and significant monetary benefits by and
24 through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego
25 Defendants as the funding source for the Individual Defendants' own personal
26 expenditures;

27 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants
28 and the Alter Ego Defendants, while really one and the same, were segregated to

1 appear as though separate and distinct for purposes of perpetrating a fraud,
2 circumventing a statute, or accomplishing some other wrongful or inequitable
3 purpose;

4 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
5 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
6 mentioned herein were, so mixed and intermingled that the same cannot reasonably
7 be segregated, and the same are inextricable confusion. The Alter Ego Defendants
8 are, and at all relevant times mentioned herein were, used by the Individual
9 Defendants as mere shells and conduits for the conduct of certain of their, and each
10 of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
11 herein were, the alter egos of the Individual Defendants;

12 E. The recognition of the separate existence of the Individual Defendants and the Alter
13 Ego Defendants would promote injustice insofar that it would permit defendants to
14 insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor
15 Code, and other statutory violations. The corporate existence of these defendants
16 should thus be disregarded in equity and for the ends of justice because such
17 disregard is necessary to avoid fraud and injustice to Plaintiff herein;

18 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
19 Defendants (and vice versa), and the fiction of their separate corporate existence
20 must be disregarded;

21 12. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
22 thereon alleges that Defendants, and each of them, are joint employers.

23 JURISDICTION

24 13. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
25 of Civil Procedure section 410.10.

26 14. Venue is proper in San Mateo County, California pursuant to Code of Civil
27 Procedure sections 392, et seq. because, among other things, San Mateo County is where the causes
28 of action complained of herein arose; the county in which the employment relationship began; the

1 county in which performance of the employment contract, or part of it, between Plaintiff and
2 Defendants was due to be performed; the county in which the employment contract, or part of it,
3 between Plaintiff and Defendants was actually performed; and the county in which Defendants, or
4 some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff,
5 Class Members, and aggrieved employees in San Mateo County, and because Defendants employ
6 numerous Class Members and aggrieved employees in San Mateo County.

7 15. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
8 Defendants during the applicable statutory period and suffered one or more of the Labor Code
9 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
10 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
11 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
12 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
13 employees of Defendants during the Civil Penalty Period.

14 16. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
15 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
16 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
17 PAGA allegations described herein is not required.

18 17. During the period beginning one (1) year preceding the provision of notice to the
19 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
20 Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7,
21 227.3, 246, *et seq.*, 432, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198.5, 2699, 2802, and 2810.5,
22 among others.

23 18. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
24 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
25 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
26 specified in Labor Code section 2699.3.

27 19. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
28 section 2699.3. On or around September 16, 2020, Plaintiff gave written notice to the Labor and

1 Workforce Development Agency ("LWDA") and to Defendants of the specified provisions of the
2 Labor Code alleged to have been violated by it. The LWDA did not provide notice of its intention
3 to investigate Defendants' alleged violations within sixty-five (65) calendar days of the September
4 16, 2020 postmarked date of the herein-described notice sent by Plaintiff to the LWDA and
5 Defendants.

6 **FACTUAL BACKGROUND**

7 20. For at least four (4) years prior to the filing of this action and continuing to the
8 present, Defendants have, at times, failed to pay overtime wages to Plaintiff, Class Members, and
9 aggrieved employees, or some of them, in violation of California state wage and hour laws as a
10 result of, without limitation, Plaintiff, Class Members, and aggrieved employees working over eight
11 (8) hours per day, forty (40) hours per week, and seven consecutive work days in a work week
12 without being properly compensated for hours worked in excess of (8) hours per day in a work day,
13 forty (40) hours per week in a work week, and/or hours worked on the seventh consecutive work
14 day in a work week by, among other things, failing to accurately track and or pay for all hours
15 actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to
16 work off the clock, including, without limitation, by requiring employees to: to complete pre-shift
17 tasks before clocking in and post-shift tasks after clocking out, to don and doff uniforms and/or
18 safety equipment off the clock; detrimental rounding of employee time entries, editing and/or
19 manipulation of time entries to show less hours than actually worked; and for paying straight pay
20 instead of overtime pay, to the detriment of Plaintiff, Class Members, and aggrieved employees.

21 21. For at least four (4) years prior to the filing of this Action and continuing to the
22 present, Defendants have, at times, failed to pay minimum wages to Plaintiff, Class Members, and
23 aggrieved employees, or some of them, in violation of California state wage and hour laws as a
24 result of, among other things, at times, failing to accurately track and/or pay for all hours actually
25 worked at their regular rate of pay that is above the minimum wage; engaging, suffering, or
26 permitting employees to work off the clock, including, without limitation, by requiring employees
27 to: to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to don and
28 doff uniforms and/or safety equipment off the clock; and detrimental rounding of employee time

1 entries, editing and/or manipulation of time entries to show less hours than actually worked, to the
2 detriment of Plaintiff, Class Members, and aggrieved employees.

3 22. For at least four (4) years prior to the filing of this Action and continuing to the
4 present, Defendants have, at times, failed to provide Plaintiff, Class Members, and aggrieved
5 employees, or some of them, full, timely thirty (30) minute uninterrupted meal period for days on
6 which they worked more than five (5) hours in a work day and a second thirty (30) minute
7 uninterrupted meal period for days on which they worked in excess of ten (10) hours in a work day,
8 and failing to provide compensation for such unprovided meal periods as required by California
9 wage and hour laws.

10 23. For at least four (4) years prior to the filing of this action and continuing to the
11 present, Defendants have, at times, failed to authorize and permit Plaintiff, Class Members, and
12 aggrieved employees, or some of them, to take rest periods of at least ten (10) minutes per four (4)
13 hours worked or major fraction thereof and failed to provide compensation for such unprovided rest
14 periods as required by California wage and hour laws.

15 24. For at least three (3) years prior to the filing of this action and continuing to the
16 present, Defendants have, at times, failed to pay Plaintiff, Class Members, and aggrieved employees,
17 or some of them, the full amount of their wages owed to them upon termination and/or resignation
18 as required by Labor Code sections 201 and 202.

19 25. For at least one (1) year prior to the filing of this Action and continuing to the present,
20 Defendants have, at times, failed to furnish Plaintiff, Class Members, and aggrieved employees, or
21 some of them, with itemized wage statements that accurately reflect gross wages earned; total hours
22 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
23 corresponding number of hours worked at each hourly rate; and other such information as required
24 by Labor Code section 226, subdivision (a). As a result thereof, Defendants have further failed to
25 furnish employees with an accurate calculation of gross and gross wages earned, as well as gross
26 and net wages paid.

27 26. For at least three (3) years prior to the filing of this action and continuing to the
28 present, Defendants have, at times, failed to indemnify Class Members and aggrieved employees,

1 or some of them, for the costs incurred in laundering mandatory work uniforms; mileage and/or gas
2 costs incurred in driving personal vehicles for work-related purposes; and using cellular phones for
3 work-related purposes.

4 27. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members and aggrieved
5 employees, brings this action pursuant to, including but not limited to, Labor Code sections 200,
6 201, 202, 203, 204, 210, 226, 226.2, 226.3, 226.7, 246 *et seq.*, 432, 510, 512, 558, 1174, 1194,
7 1194.2, 1197, 1197.1, 2699, 2802, 2810.5, and California Code of Regulations, Title 8, section
8 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and
9 rest periods, waiting time penalties, wage statement penalties, failure to indemnify work-related
10 expenses, other such provisions of California law, and reasonable attorneys' fees and costs.

11 28. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members and aggrieved
12 employees, pursuant to Business and Professions Code sections 17200 through 17208, also seeks
13 (an) injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the
14 establishment of appropriate and effective means to prevent further violations, as well as all monies
15 owed but withheld and retained by Defendants to which Plaintiff, Class Members, and aggrieved
16 employees are entitled, as well as restitution of amounts owed.

17 29. Plaintiff, Class Members, and other aggrieved employees or former employees at all
18 times pertinent hereto were not exempt from the payment of overtime wages, minimum wages,
19 payment of premium wages for missed rest periods, waiting time penalties, wage statement
20 penalties, reimbursement for expenses incurred in furtherance of job duties, and other such
21 provisions of California law, and the implementing rules and regulations of the IWC California
22 Wage Orders.

23 **CLASS ACTION ALLEGATIONS**

24 30. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
25 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current
26 and former non-exempt employees of Defendants within the State of California at any time
27 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice
28 of the class action is provided to the class (collectively referred to as "Class Members").

1 31. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
2 to amend or modify the class description with greater specificity, further divide the defined class
3 into subclasses, and to further specify or limit the issues for which certification is sought.

4 32. This action has been brought and may properly be maintained as a class action under
5 the provisions of Code of Civil Procedure section 382 because there is a well-defined community
6 of interest in the litigation and the proposed Class is easily ascertainable.

7 A. **Numerosity**

8 33. The potential Class Members as defined are so numerous that joinder of all the
9 members of the Class is impracticable. While the precise number of Class Members has not been
10 determined yet, Plaintiff is informed and believes that there are over fifty (50) Class Members
11 employed by Defendants within the State of California.

12 34. Accounting for employee turnover during the relevant periods necessarily increases
13 this number. Plaintiff alleges Defendants' employment records would provide information as to the
14 number and location of all Class Members. Joinder of all members of the proposed Class is not
15 practicable.

16 B. **Commonality**

17 35. There are questions of law and fact common to Class Members. These common
18 questions include, but are not limited to:

- 19 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
20 worked at a proper overtime rate of pay?
- 21 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
22 for all other time worked at the employee's regular rate of pay and a rate of pay that
23 is greater than the applicable minimum wage?
- 24 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
25 Class Members to take compliant meal periods?
- 26 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
27 with additional wages for missed or interrupted meal periods?
- 28 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting

1 Class Members to take compliant rest periods?

2 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
3 with additional wages for missed rest periods?

4 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
5 Members upon termination or resignation all wages earned?

6 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
7 section 203?

8 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
9 Class Members with accurate wage statements?

10 J. Did Defendants fail to indemnify Class Members for all necessary expenditures or
11 losses incurred in direct consequence of the discharge of their duties or by obedience
12 to the directions of Defendants as required under Labor Code section 2802?

13 K. Did Defendants violate the Unfair Competition Law, Business and Professions Code
14 section 17200, *et seq.*, by their unlawful practices as alleged herein?

15 L. Are Class Members entitled to restitution of wages under Business and Professions
16 Code section 17203?

17 M. Are Class Members entitled to costs and attorneys' fees?

18 N. Are Class Members entitled to interest?

19 **C. Typicality**

20 36. The claims of Plaintiff herein alleged are typical of those claims which could be
21 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
22 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
23 damages arising out of and caused by Defendants' common course of conduct in violation of laws
24 and regulations that have the force and effect of law and statutes as alleged herein.

25 **D. Adequacy of Representation**

26 37. Plaintiff will fairly and adequately represent and protect the interest of Class
27 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
28 hour class actions.

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44. Four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff, Class Members, and aggrieved employees, at times, worked for Defendants during shifts that consisted of more than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7) consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees to: to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to don and doff uniforms and/or safety equipment off the clock; detrimental rounding of employee time entries, editing and/or manipulation of time entries to show less hours than actually worked; and for paying straight pay instead of overtime pay, to the detriment of Plaintiff, Class Members, and aggrieved employees.

45. Accordingly, by requiring Plaintiff, Class Members, and aggrieved employees to, at times, work greater than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and applicable IWC Wage Orders, and California law.

46. As a result of the unlawful acts of Defendants, Plaintiff, Class Members, and aggrieved employees have been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

47. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

48. At all relevant times, Plaintiff, Class Members, and aggrieved employees were employees or former employees of Defendants covered by Labor Code sections 1197, 1199 and

1 applicable Wage Orders.

2 49. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff, Class
3 Members, and aggrieved employees were entitled to receive minimum wages for all hours worked
4 or otherwise under Defendants' control.

5 50. For four (4) years prior to the filing of the Complaint in this Action through the
6 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
7 their regular rate of pay that is above the minimum wage, engaging, suffering, or permitting
8 employees to work off the clock, including, without limitation, by requiring employees to: to
9 complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to don and doff
10 uniforms and/or safety equipment off the clock; and detrimental rounding of employee time entries,
11 editing and/or manipulation of time entries to show less hours than actually worked, to the detriment
12 of Plaintiff, Class Members, and aggrieved employees.

13 51. As a result of Defendants' unlawful conduct, Plaintiff, Class Members, and
14 aggrieved employees have suffered damages in an amount, subject to proof, to the extent they were
15 not paid minimum wages for all hours worked or otherwise due.

16 52. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
17 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff, Class Members, and aggrieved
18 employees are entitled to recover the full amount of unpaid minimum wages, interest and penalties
19 thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

20 **THIRD CAUSE OF ACTION**

21 **(Failure to Provide Meal Periods – Against All Defendants)**

22 53. Plaintiff realleges and incorporates by reference all of the allegations contained in
23 the preceding paragraphs as though fully set forth hereat.

24 54. At all relevant times, Plaintiff, Class Members, and aggrieved employees were
25 employees or former employees of Defendants covered by Labor Code section 512 and applicable
26 Wage Orders.

27 55. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
28 employ an employee for a work period of more than five (5) hours without a timely meal break of

1 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
2 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
3 per day without providing the employee with a second timely meal period of not less than thirty (30)
4 minutes in which the employee is relieved of all of his or her duties.

5 56. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
6 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
7 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
8 of compensation for each workday that the meal period is not provided.

9 57. For four (4) years prior to the filing of the Complaint in this Action through the
10 present, Plaintiff, Class Members, and aggrieved employees were, at times, not provided complete,
11 timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving
12 the right to take them, as permitted. Moreover, at times, Defendants failed to provide one (1)
13 additional hour of pay at the Class Member's or aggrieved employee's regular rate of compensation
14 on the occasions that Class Members and aggrieved employees were not provided compliant meal
15 periods.

16 58. By their failure to provide Plaintiff, Class Members, and aggrieved employees
17 compliant meal periods as contemplated by Labor Code section 512, among other California
18 authorities, and failing, at times, to provide compensation for such unprovided meal periods, as
19 alleged above, Defendants willfully violated the provisions of Labor Code section 512 and
20 applicable Wage Orders.

21 59. As a result of Defendants' unlawful conduct, Plaintiff, Class Members, and
22 aggrieved employees have suffered damages in an amount, subject to proof, to the extent they were
23 not paid additional pay owed for missed, untimely, interrupted, incomplete and/or on-duty meal
24 periods.

25 60. Plaintiff, Class Members, and aggrieved employees are entitled to recover the full
26 amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be
27 determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code
28 sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section

1 3287.

2 **FOURTH CAUSE OF ACTION**

3 **(Failure to Provide Rest Periods – Against All Defendants)**

4 61. Plaintiff realleges and incorporates by reference all of the allegations contained in
5 the preceding paragraphs as though fully set forth hereat.

6 62. At all relevant times, Plaintiff, Class Members, and aggrieved employees were
7 employees or former employees of Defendants covered by applicable Wage Orders.

8 63. California law and applicable Wage Orders require that employers “authorize and
9 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
10 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
11 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
12 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
13 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
14 thirty (30) minutes of paid rest period.

15 64. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
16 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
17 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee’s
18 regular rate of compensation for each work day that the rest period is not provided.

19 65. For four (4) years prior to the filing of the Complaint in this Action through the
20 present, Plaintiff, Class Members, and aggrieved employees were, at times, not authorized or
21 permitted to take complete, timely 30-minute, duty-free uninterrupted rest periods every four (4)
22 hours of work or major fraction thereof. Moreover, at times, Defendants failed to provide one (1)
23 additional hour of pay at the Class Member’s or aggrieved employee’s regular rate of compensation
24 on the occasions that Class Members or aggrieved employees were not authorized or permitted to
25 take compliant rest periods.

26 66. By their failure, at times, to authorize and permit Plaintiff, Class Members, and
27 aggrieved employees to take rest periods contemplated by California law, and one (1) additional
28 hour of pay at the employee’s regular rate of compensation for such unprovided rest periods, as

1 alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and
2 applicable Wage Orders.

3 67. As a result of Defendants' unlawful conduct, Plaintiff, Class Members, and
4 aggrieved employees have suffered damages in an amount, subject to proof, to the extent they were
5 not paid additional pay owed for rest periods that they were not authorized or permitted to take.

6 68. Plaintiff, Class Members, and aggrieved employees are entitled to recover the full
7 amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be
8 determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code
9 sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section
10 3287.

11 **FIFTH CAUSE OF ACTION**

12 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

13 69. Plaintiff realleges and incorporates by reference all of the allegations contained in
14 the preceding paragraphs as though fully set forth hereat.

15 70. At all relevant times, Plaintiff, Class Members, and aggrieved employees were
16 employees or former employees of Defendants covered by Labor Code sections 201, 202 and 203,
17 as well as applicable Wage Orders.

18 71. Pursuant to Labor Code sections 201 and 202, Plaintiff, Class Members, and
19 aggrieved employees were entitled upon termination to timely payment of all wages earned and
20 unpaid prior to termination. Discharged Class Members or aggrieved employees were entitled to
21 payment of all wages earned and unpaid prior to discharge immediately upon termination. Class
22 Members or aggrieved employees who resigned were entitled to payment of all wages earned and
23 unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72
24 hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of
25 resignation.

26 72. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)
27 years before the filing of the Complaint in this Action through the present, Defendants, due to the
28 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff, Class Members,

1 and aggrieved employees all wages earned prior to resignation or termination in accordance with
2 Labor Code sections 201 or 202.

3 73. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff, Class
4 Members, and aggrieved employees all wages earned prior to termination or resignation in
5 accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay
6 all wages earned by Plaintiff, Class Members, and aggrieved employees at the time of termination
7 in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices
8 incompatible with the requirements of Labor Code sections 201 and 202 resulting in the failure, at
9 times, to pay all wages earned prior to termination or resignation..

10 74. Pursuant to Labor Code section 203, Plaintiff, Class Members, and aggrieved
11 employees are entitled to waiting time penalties from the date their earned and unpaid wages were
12 due, upon termination or resignation, until paid, up to a maximum of thirty (30) days.

13 75. As a result of Defendants' unlawful conduct, Plaintiff, Class Members, and
14 aggrieved employees have suffered damages in an amount subject to proof, to the extent they were
15 not paid for all wages earned prior to termination or resignation.

16 76. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
17 1021.5 and 1032, and Civil Code section 3287, Plaintiff, Class Members, and aggrieved employees
18 are entitled to recover waiting time penalties, interest, and their costs of suit, as well.

19 **SIXTH CAUSE OF ACTION**

20 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

21 77. Plaintiff realleges and incorporates by reference all of the allegations contained in
22 the preceding paragraphs as though fully set forth hereat.

23 78. At all relevant times, Plaintiff, Class Members, and aggrieved employees were
24 employees or former employees of Defendants covered by Labor Code section 226, as well as
25 applicable Wage Orders.

26 79. Pursuant to Labor Code section 226, subdivision (a), Plaintiff, Class Members, and
27 aggrieved employees were entitled to receive, semi-monthly or at the time of each payment of
28 wages, an accurate itemized statement that accurately reflects, among other things, gross wages

1 earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay
2 period and the corresponding number of hours worked at each hourly rate; and the name and address
3 of the legal entity that is the employer, among other things.

4 80. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
5 before the filing of the Complaint in this Action through the present. Defendants failed to comply
6 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
7 failure, at times, to furnish Plaintiff, Class Members, and aggrieved employees with accurate
8 itemized statements that accurately reflect, among other things, gross wages earned; total hours
9 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
10 corresponding number of hours worked at each hourly rate; and the name and address of the legal
11 entity that is the employer, among other things.

12 81. Defendants' failure to, at times, provide Plaintiff, Class Members, and aggrieved
13 employees with accurate wage statements was knowing, intentional, and willful. Defendants had
14 the ability to provide Plaintiff, Class Members, and aggrieved employees with accurate wage
15 statements, but, at times, willfully provided wage statements that Defendants knew were not
16 accurate.

17 82. As a result of Defendants' unlawful conduct, Plaintiff, Class Members, and
18 aggrieved employees have suffered injury. The absence of accurate information on Class Members'
19 or aggrieved employees' wage statements at times has delayed timely challenge to Defendants'
20 unlawful pay practices; requires discovery and mathematical computations to determine the amount
21 of wages owed; causes difficulty and expense in attempting to reconstruct time and pay records; and
22 led to submission of inaccurate information about wages and amounts deducted from wages to state
23 and federal governmental agencies, among other things.

24 83. Pursuant to Labor Code section 226, subdivision (e), Plaintiff, Class Members, and
25 aggrieved employees are entitled to recover \$50 for the initial pay period during the period in which
26 violation of Labor Code section 226 occurred and \$100 for each violation of Labor Code section
27 226 in a subsequent pay period, not to exceed an aggregate \$4,000.00 per employee.

28 84. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil

1 Procedure section 1032, Civil Code section 3287, Plaintiff, Class Members, and aggrieved
2 employees are entitled to recover the full amount of penalties due under Labor Code section 226,
3 subdivision (e), reasonable attorneys' fees, and costs of suit.

4 **SEVENTH CAUSE OF ACTION**

5 **(Violation of Labor Code § 2802 – Against All Defendants)**

6 85. Plaintiff realleges and incorporates by reference all of the allegations contained in
7 the preceding paragraphs as though fully set forth hereat.

8 86. At all relevant times, Plaintiff, Class Members, and aggrieved employees were
9 employees or former employees of Defendants covered by Labor Code section 2802 and applicable
10 Wage Orders.

11 87. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
12 his or her employee for all necessary expenditures or losses incurred by the employee in direct
13 consequence of the discharge of his or her duties . . .”

14 88. For three (3) years prior to the filing of the Complaint in this Action through the
15 present, Defendants required Plaintiff, Class Members, and aggrieved employees, or some of them,
16 to incur, at times, necessary expenditures or losses in direct consequence of the discharge of their
17 duties or at the obedience to the directions of Defendants that included, without limitation:
18 laundering mandatory work uniforms; mileage and/or gas costs incurred in driving personal vehicles
19 for work-related purposes; and using cellular phones for work-related purposes.

20 89. During that time period, Plaintiff is informed and believes, and based thereon alleges
21 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff, Class
22 Members, and aggrieved employees for those losses and/or expenditures.

23 90. As a result of Defendants' unlawful conduct, Plaintiff, Class Members, and
24 aggrieved employees have suffered damages in an amount subject to proof, to the extent they were
25 not reimbursed for the herein-described losses and/or expenditures.

26 91. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
27 1032, and Civil Code section 3287, Plaintiff, Class Members, and aggrieved employees are entitled
28 to recover reimbursement for their herein-described losses and/or expenditures, reasonable

1 attorneys' fees and costs of suit.

2 **EIGHTH CAUSE OF ACTION**

3 **(Unfair Competition – Against All Defendants)**

4 92. Plaintiff realleges and incorporates by reference all of the allegations contained in
5 the preceding paragraphs as though fully set forth hereat.

6 93. Plaintiff is informed and believes, and based thereon alleges that the unlawful
7 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
8 and Professions Code section 17200. Due to their unlawful business practices in violation of the
9 Labor Code, Defendants have gained a competitive advantage over other comparable companies
10 doing business in the State of California that comply with their obligations to compensate employees
11 in accordance with the Labor Code.

12 94. As a result of Defendants' unfair competition as alleged herein, Plaintiff, Class
13 Members, and aggrieved employees have suffered injury in fact and lost money or property.

14 95. Pursuant to Business and Professions Code section 17203, Plaintiff, Class Members,
15 and aggrieved employees are entitled to (an) injunction(s) prohibiting Defendants from further
16 violating the Labor Code and requiring the establishment of appropriate and effective means to
17 prevent further violations, as well as restitution of all wages and other monies owed to them under
18 the Labor Code, including interest thereon, in which they had a property interest and which
19 Defendants nevertheless failed to pay them and instead withheld and retained for themselves.
20 Restitution of the money owed to Plaintiff, Class Members, and aggrieved employees is necessary
21 to prevent Defendants from becoming unjustly enriched by their failure to comply with the Labor
22 Code.

23 96. Plaintiff, Class Members, and aggrieved employees are entitled to costs of suit under
24 Code of Civil Procedure section 1032 and interest under Civil Code section 3287.

25 **NINTH CAUSE OF ACTION**

26 **(Civil Penalties Under Labor Code § 210 – Against All Defendants)**

27 97. Plaintiff realleges and incorporates by reference all of the allegations contained in
28 the preceding paragraphs as though fully set forth hereat.

98. At all relevant times herein, Labor Code section 204, requires and required that:

“[I]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

99. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

100. At all relevant times herein, Defendants have had a consistent policy or practice of, failing to pay Plaintiff and aggrieved employees during their employment on a timely basis as per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other aggrieved employees or former employees he seeks to represent are entitled to recover civil penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for each aggrieved employee or former employee for each initial violation per employee, and two hundred dollars (\$200) for each aggrieved employee or former employee for each subsequent violation in connection with each payment that was made in violation of Labor Code section 204.

TENTH CAUSE OF ACTION

(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)

101. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

102. Defendants have had a consistent policy or practice of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish employees with itemized wage statements that accurately reflect gross wages earned; total hours worked by the employee; all deductions; net wages earned; the inclusive dates of the period for which the employee is paid; all

1 applicable hourly rates in effect during the pay period and the corresponding number of hours
2 worked at each hourly rate by the employee; and other such information as required by Labor Code
3 section 226, subdivision (a).

4 103. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
5 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
6 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
7 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
8 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

9 104. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
10 this section are in addition to any other penalty provided by law.”

11 105. Plaintiff is informed and believes and based thereon alleges that Defendants failed
12 and continue to fail to furnish non-exempt employees, including, without limitation, Plaintiff, with
13 itemized wage statements that accurately reflect gross wages earned; total hours worked by the
14 employee; all deductions; net wages earned; the inclusive dates of the period for which the employee
15 is paid; all applicable hourly rates in effect during the pay period and the corresponding number of
16 hours worked at each hourly rate by the employee; and other such information, as required by Labor
17 Code section 226, subdivision (a) and 226.2.

18 106. Pursuant to Labor Code section 226.3, Plaintiff and other aggrieved employees or
19 former employees Plaintiff seeks to represent are entitled to recover civil penalties for Defendants’
20 violation of Labor Code section 226, subdivision (a) in the amount of two hundred fifty dollars
21 (\$250) for each aggrieved employee or former employee per pay period for the initial violation, and
22 one thousand dollars (\$1,000) for each aggrieved employee or former employee per pay period for
23 each subsequent violation.

24 **ELEVENTH CAUSE OF ACTION**

25 **(Violation of Labor Code § 558 – Against All Defendants)**

26 107. Plaintiff realleges and incorporates by reference all of the allegations contained in
27 the preceding paragraphs as though fully set forth hereat.

28 108. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person

1 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
2 hours and days of work in any order of the Industrial Welfare Commission” shall be subject to a
3 civil penalty as follows:

4 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for
5 each pay period for which the employee was underpaid in addition to an amount
6 sufficient to recover underpaid wages;

7 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
8 employee for each pay period for which the employee was underpaid in addition
9 to an amount sufficient to recover underpaid wages;

10 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

11 109. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
12 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
13 causing Plaintiff and other aggrieved employees not to: be paid overtime wages and minimum
14 wages; receive meal and rest periods or compensation in lieu thereof; and be paid timely wages
15 during their employment and after their employment separation.

16 110. As a direct and proximate result of Defendants’ conduct, Plaintiff and other
17 aggrieved employees are entitled to recover directly from Defendants civil penalties pursuant to
18 Labor Code section 558 in amounts to be determined at trial.

19 **TWELFTH CAUSE OF ACTION**

20 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

21 111. Plaintiff realleges and incorporates by reference all of the allegations contained in
22 the preceding paragraphs as though fully set forth hereat.

23 112. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
24 person acting either individually or as an officer, agent, or employee of another person, who pays
25 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
26 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
27 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
28 Section 203 as follows: For any initial violation that is intentionally committed, one hundred dollars

1 (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This
2 amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages
3 pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

4 i. For any initial violation that is intentionally committed, one hundred dollars
5 (\$100) for each underpaid employee for each pay period for which the employee
6 is underpaid. This amount shall be in addition to an amount sufficient to recover
7 underpaid wages, liquidated damages pursuant to Section 1194.2, and any
8 applicable penalties imposed pursuant to Section 203.

9 ii. For each subsequent violation for the same specific offense, two hundred fifty
10 dollars (\$250) for each underpaid employee for each pay period for which the
11 employee is underpaid regardless of whether the initial violation is intentionally
12 committed. This amount shall be in addition to an amount sufficient to recover
13 underpaid wages, liquidated damages pursuant to Section 1194.2, and any
14 applicable penalties imposed pursuant to Section 203.

15 iii. Wages, liquidated damages, and any applicable penalties imposed pursuant to
16 Section 203, recovered pursuant to this section shall be paid to the affected
17 employee.”

18 113. Plaintiff believes, and thereupon alleges, that Defendants, and each of them, made
19 the decision that Plaintiff would not be paid their due minimum wages as required due to, among
20 other things, Defendants, on occasion, , failing to accurately track and/or pay for all hours actually
21 worked at their regular rate of pay that is above the minimum wage; engaging, suffering, or
22 permitting employees to work off the clock, including, without limitation, by requiring employees
23 to: to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to don and
24 doff uniforms and/or safety equipment off the clock; and detrimental rounding of employee time
25 entries, editing and/or manipulation of time entries to show less hours than actually worked, to the
26 detriment of Plaintiff and other aggrieved employees.

27 114. As a direct and proximate result of Defendants’ conduct, Plaintiff is entitled to
28 recover directly from Defendants, civil penalties, as set forth above, pursuant to Labor Code section

1 1197.1.

2 **THIRTEENTH CAUSE OF ACTION**

3 **(Civil Penalties Under Labor Code § 2699 – Against All Defendants)**

4 115. Plaintiff realleges and incorporates by reference all of the allegations contained in
5 the preceding paragraphs as though fully set forth hereat.

6 116. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
7 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
8 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
9 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
10 action brought by an aggrieved employee on behalf of himself or herself and other current or former
11 employees pursuant to the procedures specified in Labor Code section 2699.3.

12 117. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
13 Code except those for which a civil penalty is specifically provided, the established civil penalty for
14 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
15 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
16 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
17 employee per pay period for each subsequent violation.

18 118. Plaintiff is informed and believes and based thereon alleges that Defendants, and
19 each of them, violated the Labor Code sections described herein, including, without limitation, for
20 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
21 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
22 employment and after employment separation; provide employees the opportunity to inspect
23 employment records; provide and pay for sick leave; reimburse work-related expenses; and provide
24 notice as required under Labor Code section 2810.5, entitling Plaintiff and other aggrieved
25 employees to civil penalties for each of these Labor Code violations in the amounts set forth in
26 Labor Code section 2699, subdivision (f).

27 119. Moreover, Plaintiff and other aggrieved current and former employees within the
28 State of California whom he seeks to represent are entitled to an award of reasonable attorneys' fees

1 fees and costs in connection with their herein-described claims for civil penalties.

2 **DEMAND FOR JURY TRIAL**

3 120. Plaintiff demands a trial by jury on all causes of action contained herein.

4 **PRAYER**

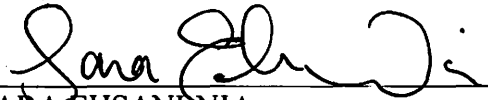
5 WHEREFORE, on behalf of Plaintiff, Class Members, and aggrieved employees, Plaintiff
6 prays for judgment against Defendants as follows:

- 7 A. An order certifying this case as a Class Action;
- 8 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
9 counsel as class counsel;
- 10 C. Damages for all wages earned and owed, including minimum and overtime wages
11 under Labor Code sections 510, 558.1, 1194, 1197 and 1199;
- 12 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- 13 E. Damages for unpaid premium wages from missed meal and rest periods under,
14 among other Labor Code sections, 512, 558.1 and 226.7;
- 15 F. Penalties for inaccurate wage statements under Labor Code sections 226,
16 subdivision (e) and 558.1;
- 17 G. Waiting time penalties under Labor Code sections 203 and 558.1;
- 18 I. Damages under Labor Code sections 2802 and 558.1;
- 19 J. Preliminary and permanent injunctions prohibiting Defendants from further
20 violating the California Labor Code and requiring the establishment of appropriate
21 and effective means to prevent future violations;
- 22 K. Restitution of wages and benefits due which were acquired by means of any unfair
23 business practice, according to proof;
- 24 L. An award for civil penalties pursuant to Labor Code sections 210, 226.3, 558, 558.1,
25 1197.1, and 2699;
- 26 M. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
27 210, 226.3, 558, 1197.1, and 2699;
- 28 N. Prejudgment and post-judgment interest at the maximum rate allowed by law;

- 1 O. For attorneys' fees in prosecuting this action;
2 P. For costs of suit incurred herein; and
3 Q. For such other and further relief as the Court deems just and proper.
4

5 Dated: January 5, 2021

BIBIYAN LAW GROUP, P.C.

6
7 BY: 
8 SARA EHSANI-NIA
9 DAVID D. BIBIYAN
10 Attorneys for Plaintiff HUGO FUENTES
11 HERNANDEZ on behalf of himself and all others
12 similarly situated
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I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

On January 5, 2021, and pursuant to the California Judicial Council's Emergency Rules. Appendix I. Emergency Rule 12. I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED CLASS ACTION COMPLAINT** to be served by electronic transmission to the below referenced electronic e-mails:

Brittany Rupley Haeefe
Porter Law Group
7801 Folsom Blvd., Suite 101
Sacramento, California 95826
Bhaeefe@porterlaw.com

Counsel for Defendants TERRA FERMA LANDSCAPES INC., TERRA FERMA LANDSCAPES DESIGN, INC., and WILLAIM BRIAN KOCH

The Honorable Judge Marie S. Weiner
400 County Center
Department 2, Courtroom 2E
Redwood City, California 94063
complexcivil@sanmateocourt.org

Honorable Marie S. Weiner, Department 2, Superior Court of the County of San Mateo

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

Executed on January 5, 2021 at Beverly Hills, California.


Rosemary Martir