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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PEDRO TORRES,

Plaintiff,

vs.

CANTON FOOD CO., INC. and DOES 1 to
25, inclusive,

Defendants.

CASE NO.: 21STCV02988

COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES;**
- 3) FAILURE TO PAY OVERTIME;**
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 6) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 7) VIOLATION OF LABOR CODE SECTION 558;**
- 8) FAILURE TO MAINTAIN ACCURATE RECORDS;**
- 9) FAILURE TO PROVIDE REST BREAKS;**
- 10) FAILURE TO PROVIDE MEAL BREAKS;**
- 11) PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
- 12) FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 13) VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

JURY TRIAL DEMANDED

COMES NOW Plaintiff, PEDRO TORRES (hereinafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants CANTON FOOD CO., INC. and DOES 1 to 25 do business in the County of Los Angeles, and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff's damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant CANTON FOOD CO., INC. ("CANTON") is a California corporation, doing business in the County of Los Angeles, State of California at 750 S. Alameda St., Los Angeles, CA 90021, and which employed Plaintiff.

4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

5. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and

under the authority of their agency, employment, or representative capacity, with the consent of his/her codefendants.

GENERAL ALLEGATIONS

6. Plaintiff started working for CANTON on or around August 21, 2020 as a stocker. Plaintiff was scheduled to work Monday through Friday, 8am to 5pm or 830am to 530pm. Plaintiff was classified as an hourly, non-exempt employee and was earning \$15 per hour.

7. It is Plaintiff's position that CANTON has violated the following Labor Code Sections against Plaintiff and other similarly situated aggrieved employees, who include all non-exempt, hourly employees who worked for CANTON in the State of California during the relevant PAGA period.

8. CANTON violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed to pay Plaintiff and other similarly situated aggrieved employees for all hours worked, including the statutory minimum wage for all hours worked and for "off the clock" work. Plaintiff and others were not paid for all hours worked in violation of Labor Code Section 1194 and the applicable Industrial Welfare Commission Wage Order (nos. 1 or 7) due to CANTON's company policy of rounding of the actual hours worked as a part of their business practice, which disproportionately affected the employees and resulted in less working hours and less pay.

9. Pursuant to California Industrial Welfare Commission Order No. 1-2001/7-2001, Section 9(B), "When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." CANTON unequivocally required its employees, including Mr. Torres, to provide their own tools. The latter was company policy. As such, CANTON violated the aforementioned IWC Wage Order(s) in that CANTON required its employees, including Mr. Torres, to provide and maintain hand tools and equipment customarily required by the trade but did NOT compensate these employees at least two (2) times the minimum wage. Plaintiff and

1 others were required as a matter of policy to bring their own blades, which was a hand tool
2 required to effectuate his job duties as a stocker. Plaintiff asked CANTON to provide him a
3 blade, however, management stated that they would not and that Plaintiff had to purchase his
4 own blades.

5 10. Due to the above “off the clock” violations, CANTON also violated Labor Code §510
6 because it failed to pay Plaintiff and other aggrieved employees overtime compensation, even
7 though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
8 throughout their employment. Mr. Torres’ and other aggrieved employees’ actual work hours
9 entitled them to overtime compensation, however, CANTON did not compensate its hourly, non-
10 exempt employees with the correct amount of overtime. In addition, to the extent CANTON
11 gives its employees non-discretionary bonuses, it does not factor that bonus in calculating the
12 employees’ regular rate of pay for the purposes of calculating the correct amount of overtime
13 compensation. Furthermore, there were numerous instances wherein Plaintiff worked until
14 5:45pm, but was never compensated for his overtime hours worked. It was company policy not
15 to pay overtime hours under the guise that the overtime hours needed to be “approved” even
16 though management was unequivocally aware that Plaintiff was working overtime hours.

17 11. CANTON also violated Labor Code § 226.7 and the appropriate Industrial Welfare
18 Commission Wage Order because it failed to provide Plaintiff and other similarly situated
19 aggrieved employees with 10-minute rest periods for every four hours of work, or majority
20 portion thereof, throughout their employment. CANTON did not completely relieve Plaintiff
21 and others of all duty during said rest periods. CANTON did not pay to Plaintiff and others one
22 additional hour of pay at Plaintiff’s regular rate of compensation for each workday that one or
23 more statutory rest periods was not provided. It was not part of the company policy for employees
24 such as Plaintiff to take rest breaks. As such, the culture at CANTON did not lend itself to the
25 employees receiving statutory rest breaks wherein they were relieved of all work duties. The
26 environment at CANTON was not conducive to receiving statutory rest breaks under California
27 law and timely, statutory rest breaks were not authorized or enforced.

28 12. CANTON violated Labor Code §§ 512 and 226.7 along with the appropriate Industrial

1 Welfare Commission Wage Order because it failed to provide hourly, non-exempt employees,
2 including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods for every five
3 (5) hours of work throughout their employment. CANTON did not completely relieve Plaintiff
4 and other employees of all duty during said meal periods. CANTON did not pay to Plaintiff and
5 its hourly, non-exempt employees one additional hour of pay at their regular rate of
6 compensation for each workday that one or more statutory meal periods was not provided. The
7 hourly, non-exempt employees, including Mr. Torres, would often not be able to receive their
8 meal periods before the 5th hour worked due to understaffing, being too busy with work tasks,
9 and having no one relieve them. Like the rest breaks, receiving a thirty-minute uninterrupted and
10 timely meal break was not part of the company culture and was not enforced by CANTON.
11 Consequently, it was the normal practice and custom of CANTON not to authorize, permit, and
12 enforce timely statutory meal periods.

13 13. Furthermore, during the relevant time period and based on the above, CANTON failed
14 to pay Plaintiff and others all wages due to them within any time period specified by California
15 Labor Code section 204.

16 14. CANTON was also in violation of California Labor Code section 226(a), by failing to
17 include pertinent information on the wage statements, including but not limited to, the full and
18 correct name of the legal employer along with the employer's correct legal address, all hours
19 worked (including "off the clock" hours and overtime), all applicable hourly rates in effect, the
20 correct identifying information for each employee, gross wages earned, net wages earned,
21 premium pay for the missed meal and rest breaks, the correct start and end of the pay period, all
22 deductions, and business expense reimbursement, among others. As such, CANTON did not
23 provide Plaintiff and other similarly situated aggrieved employees with complete, accurate
24 itemized wage statements.

25 15. During the relevant time period, CANTON also failed to keep accurate and complete
26 payroll records showing the actual hours worked per day and the wages paid to Plaintiff and
27 others pursuant to California Labor Code sections 1174(d).
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1 16. CANTON also violated Labor Code § 203 because it willfully failed to pay other Plaintiff
2 and similarly situated aggrieved employees earned and due wages upon separation of
3 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
4 These earned but unpaid wages include compensation for all hours worked, including minimum
5 wages, overtime compensation, premium pay for missed meal and rest breaks, and business
6 expense reimbursement.

7 17. Also, during the relevant time period, Plaintiff and other aggrieved employees incurred
8 necessary, business-related expenses and costs that were not reimbursed by CANTON. These
9 costs include, but are not limited to, purchase of hand tools, including blades, in order to
10 effectuate their job duties. Accordingly, CANTON was in violation of California Labor Code
11 sections 2800 and 2802. Moreover, CANTON also charged Plaintiff and others for their
12 uniforms and deducted that amount from Plaintiff check in violation of Labor Code Section 221.

13 18. Furthermore, it is Plaintiff's position that CANTON has also violated Labor Code
14 Section 558 and has engaged in business practices which violate Business and Professions Code
15 Section 17200.

16 19. Moreover, CANTON failed to provide sick pay pursuant to Labor Code section 246 and
17 also failed to provide Worker's Compensation coverage for Plaintiff and other aggrieved
18 employees in violation of Labor Code Section 3700.5.

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20 **FIRST CAUSE OF ACTION**

21 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

22 **(California Industrial Welfare Commission Order 1-2001/7-2001, California Code of**
23 **Regulations Title 8 Section 11010/11070, and California Labor Code Section 1198)**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 20. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 19, inclusive, of this Complaint as though fully set forth herein.

27 21. At all times relevant herein, Defendants were required to compensate its employees for
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1 all hours worked upon reporting for work at the appointed time stated by the employer
2 pursuant to Industrial Welfare Commission Order 1-2001, California Code of Regulations,
3 Title 8, Section 11010 and/or Industrial Welfare Commission Order 7-2001, California Code of
4 Regulations, Title 8, Section 11070.

5 22. For the three (3) years preceding filing of this action, Defendants failed to compensate
6 Plaintiff for all hours worked.

7 23. Under the aforementioned wage order and regulations, Plaintiff is to recover
8 compensation for all hours worked but not paid by Defendants for the three (3) years
9 preceding the filing of this Complaint.

10 24. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
11 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
12 this Court.

13 25. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
14 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
15 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
16 reasonable attorney's fees and costs of suit.

17 26. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
18 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
19 amount known to Plaintiff once he has obtained all of his payroll records from
20 Defendants.

21 **SECOND CAUSE OF ACTION**

22 **FAILURE TO PAY MINIMUM WAGES**

23 **(California Labor Code Sections 1194, 1194.2, 1197)**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 27. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 26, inclusive, of this Complaint as though fully set forth herein.

27 28. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
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1 to suffer or permit a California employee to work without paying wages at the minimum wage
2 rate for all hours worked as required by the applicable Industrial Welfare Commission
3 (hereinafter "IWC") Wage Order No. 1-2001, codified at California Code of Regulations, Title
4 8, Section 11010, subdivision 4 and/or Wage Order No. 7-2001, codified at California Code of
5 Regulations, Title 8, Section 11070, subdivision 4.

6 29. Pursuant to IWC Wage Order no. 1-2001 and/or 7-2001, subdivision 2(G)/2(K), at all
7 relevant times, "hours worked" included "the time during which an employee is subject to the
8 control of an employer, and includes all the time the employee is suffered or permitted to work,
9 whether or not required to do so..."

10 30. During his employment, Plaintiff was regularly required as a matter of uniform
11 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
12 was paid less than the minimum wage rate by Defendants for hours worked in violation of
13 California Labor Code Section 1197 and the applicable California Industrial Wage
14 Commission wage order(s).

15 31. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
16 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
17 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
18 to believe that their acts or omissions were not contrary to California law.

19 32. For all hours worked by Plaintiff for which he was paid less than the minimum wage
20 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
21 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
22 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
23 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

24 33. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
25 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
26 trial.

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1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME**

3 **(California Industrial Welfare Commission Order 1-2001/7-2001, California Code of**
4 **Regulations Title 8 Section 11010/11070)**

5 **(Plaintiff against all named defendants and all DOE defendants)**

6 34. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 33, inclusive, of this Complaint as though fully set forth herein.

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9 35. Pursuant to Industrial Welfare Commission Order No. 1-2001, California Code of
10 Regulations, Title 8, Section 11010 and/or Industrial Welfare Commission Order No. 7-2001,
11 California Code of Regulations, Title 8, Section 11070, for the period of Plaintiff's
12 employment, Defendants were required to compensate Plaintiff for all overtime, which is
13 calculated at one and one-half (1.5) times the regular rate of pay for hours worked in excess of
14 eight (8) in a day or forty (40) hours in a week, and two (2) times the regular rate of pay for
15 hours worked in excess of twelve (12) hours in a day or hours worked in excess of eight (8) on
16 the seventh consecutive workday in a week.

17 36. Plaintiff was a non-exempt employee entitled to the protections of the California
18 Industrial Welfare Commission Order No. 1-2001, California Code of Regulations, Title 8,
19 Section 11010 and/or California Industrial Welfare Commission Order No. 7-2001, California
20 Code of Regulations, Title 8, Section 11070.

21 37. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
22 single workweek on numerous occasions.

23 38. Plaintiff worked more than twelve (12) hours in a single workday.

24 39. Plaintiff was entitled to the above overtime premiums.

25 40. Defendants did not pay Plaintiff premium wages of at least one and one-half times
26 Plaintiff's regular rate of pay for hours worked past eight (8) in a day.

27 41. Defendants did not pay Plaintiff premium wages of at least one and one-half times
28 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

1 42. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's regular
2 rate of pay for hours worked past twelve (12) in a day.

3 43. Plaintiff worked at least one pay period in which he was not properly paid overtime
4 within the three (3) years prior to the initiation of this lawsuit.

5 44. Defendants know or should know the actual dates of overtime worked, the amount of
6 overtime worked, and the amount of unpaid overtime due.

7 45. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
8 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
9 Court.

10 46. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
11 Regulations, Title 8, Sections 11010 and/or 11070, Plaintiff is entitled to recover damages for
12 the nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
13 reasonable attorney's fees and costs of suit.

14 47. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

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18 **FOURTH CAUSE OF ACTION**

19 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

20 **(California Labor Code Section 226)**

21 **(Plaintiff against all named defendants and all DOE defendants)**

22 48. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 47, inclusive, of this Complaint as though fully set forth herein.

24 49. Pursuant to California Labor Code Section 226, every employer must furnish each
25 employee an itemized statement of wages and deductions at the time of payment of wages.

26 50. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs
27 that accurately reflected all information required by Labor Code Section 226, including but not
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1 limited to, accurate figures for gross wages earned, net wages earned, total hours worked by
2 the employee (regular and overtime), all applicable hourly rates, all deductions, premium pay
3 for missed rest breaks and meal breaks, the correct start and end of the pay period, the correct
4 name and address of the legal employer, and business expense reimbursement. Therefore,
5 Defendants failed to maintain and provide accurate itemized wage statements to Plaintiff in
6 accordance with California Labor Code Section 226(a).

7 51. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
8 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
9 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
10 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
11 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
12 the 1-year period immediately preceding the date this lawsuit was filed.

13 52. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
14 sustained damages, including loss of earnings, in an amount to be established at trial. As a
15 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
16 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
17 and attorney's fees pursuant to statute.

18 53. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
19 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
20 trial.

21 **FIFTH CAUSE OF ACTION**

22 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

23 **(California Labor Code Sections 201, 203)**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 54. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 53, inclusive, of this Complaint as though fully set forth herein.

27 55. Pursuant to California Labor Code Section 201(a), an employer who discharges an
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employee must immediately pay for all compensation due and owing.

56. Pursuant to California Labor Code Section 202, when an employee resigns, the employer must pay all compensation due and owing within 72 hours of resignation, or on the employee's last day of work, if the employee gives more than 72 hours notice of resignation.

57. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay, without abatement or reduction, any wages of an employee whose employment ends, the wages of the employee shall continue as a penalty from the due date at the same rate until paid or until an action is commenced; however, the wages shall not continue for more than 30 days for failure to pay an employee owed wages.

58. After Plaintiff's employment with Defendants ended, Defendants willfully refused and continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

59. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately preceding the filing of this lawsuit.

60. Under this cause of action, Plaintiff also prays for attorney's fees and costs under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

61. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

SIXTH CAUSE OF ACTION

FAILURE TO PAY WAGES OWED EVERY PAY PERIOD

(California Labor Code Section 204)

(Plaintiff against all named defendants and all DOE defendants)

62. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 61, inclusive, of this Complaint as though fully set forth herein.

1 63. California Labor Code Section 204 establishes the fundamental right of all employees
2 in the State of California to be paid wages in a timely fashion for their work.

3 64. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
4 full amount of all owed wages when due as required by California Labor Code Section 204.

5 65. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
6 informed, believes, and thereon alleges, that all times relevant during the liability period,
7 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
8 including overtime hours and the minimum wage as well as premiums for missed rest breaks
9 and meal breaks.

10 66. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
11 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
12 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
13 from Defendants' records or indirectly based on information from Defendants' records.

14 67. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

17 **SEVENTH CAUSE OF ACTION**

18 **VIOLATION OF LABOR CODE SECTION 558**

19 **(California Labor Code Section 558)**

20 **(Plaintiff against all named defendants and all DOE defendants)**

21 68. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 67, inclusive, of this Complaint as though fully set forth herein.

23 69. California Labor Code Section 558 states that any person acting on behalf of an
24 employer who violates, or causes to be violated, a section of this chapter or any provision
25 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
26 subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid
27 employee for each pay period for which the employee was underpaid in addition to an amount
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1 sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one
2 hundred dollars (\$100) for each underpaid employee for each pay period for which the
3 employee was underpaid in addition to an amount sufficient to recover underpaid wages.
4 Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was
5 filed.

6 70. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558.
7 Thus, Defendants are subject to civil penalties under the following laws:

- 8 a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular and
9 overtime wages for overtime hours worked. As such, Defendants violated Section
10 558 under which penalties are due. Plaintiff therefore prays for penalties of \$50.00
11 for the first pay period and \$100.00 for each subsequent violation for each pay
12 period for which Plaintiff was underpaid in addition to an amount sufficient to
13 recover underpaid wages.
- 14 b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for
15 relief associated with Plaintiff's prosecution of this cause of action under California
16 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
17 paying Plaintiff for her overtime hours worked and for all hours worked.
- 18 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
19 fees for relief associated with Plaintiff's prosecution of this cause of action under
20 California Labor Code Sections 200, et seq.

21 71. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due
22 under the statutes, regulations, and wage orders alleged in this cause of action along with any
23 allowable interest, penalties, attorney's fees, and costs according to proof at trial.

24 72. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs an
25 attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.
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EIGHTH CAUSE OF ACTION
FAILURE TO MAINTAIN ACCURATE RECORDS
(California Labor Code Section 1174(d))

(Plaintiff against all named defendants and all DOE defendants)

73. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 72, inclusive, of this Complaint as though fully set forth herein.

74. Labor Code section 1174(d) requires that employers, including Defendants, maintain accurate records showing the hours worked daily by its employees and to whom wages were paid.

75. Additionally, the "Records" section of the applicable IWC Wage Order obligates the employer, including Defendants, to keep accurate information with respect to each one of their employees including, but not limited to, the total wages paid each payroll period, and time records showing when the employee begins and ends each work period, meal periods, split shift intervals; the total daily hours worked; the total hours worked in the payroll period, and the applicable rates of pay.

76. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails to maintain accurate and complete records required by Labor Code section 1174(d) is subject to a penalty. On information and belief, Defendants intentionally failed to maintain accurate records of Plaintiff's total daily hours, the total hours worked in the payroll period, the applicable rates of pay, and total wages earned for the payroll period.

77. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and continues to suffer substantial losses related to Defendants' failure to record and maintain records of meal and rest periods as well as time records.

78. Plaintiff seeks all available remedies for Defendants' violations including, but not limited penalties, and costs to the extent permitted by law and according to proof at trial.

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1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO GIVE REST BREAKS**

3 **(Plaintiff against all named defendants and all DOE defendants)**

4 79. Plaintiff re-alleges and incorporates by reference each and every allegation in
5 paragraphs 1 through 78, inclusive, of this Complaint as though fully set forth herein.
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7 80. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 8 a. Title 8 of the California Code of Regulations Sections 11010(12)(A) and/or
9 11070(12)(A), which provide that every employer shall authorize and permit all
10 employees to take rest periods, which insofar as practicable shall be in the middle of
11 each work period. The authorized rest period time shall be based on the total hours
12 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
13 fraction thereof;
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- 15 b. Title 8 of the California Code of Regulations Sections 11010(12)(B) and/or
16 11070(12)(B), which provides that if an employer fails to provide an employee a
17 rest period in accordance with the applicable provisions of this order, the employer
18 shall pay the employee one (1) hour of pay at employee's regular rate of
19 compensation for each workday that the rest period is not provided;
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- 21 c. Title 8 of the California Code of Regulations sections 11010(20)(A) and/or
22 11070(20)(A), which penalizes the employer \$50.00 for each initial violation, per
23 employee, of any provision of the Wage Order, and \$100.00 for each additional
24 violation thereafter per employee; and
- 25 d. California Labor Code section 226.7, which states that (a) no employer shall require
26 any employee to work during any rest period mandated by an applicable order of
27 the Industrial Welfare Commission, and (b) if an employer fails to provide an
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1 employee a rest period in accordance with an applicable order of the Industrial
2 Welfare Commission, the employer shall pay the employee one (1) additional hour
3 of pay at employee's regular rate of compensation for each work day that the rest
4 period is not provided.

5 81. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute
6 rest break after every four (4) hours of work or major fraction thereof, as required by California
7 law.

8 82. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
9 regulations, and wage orders alleged in this cause of action along with any allowable interest,
10 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
11 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

12 83. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
13 fees as well as interest under Labor Code section 218.6.

14 84. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

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19 **TENTH CAUSE OF ACTION**

20 **FAILURE TO GIVE MEAL BREAKS**

21 **(Plaintiff against all named defendants and all DOE defendants)**

22 85. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 84, inclusive, of this Complaint as though fully set forth herein.

24 86. Plaintiff brings this cause of action under the following laws, for the following
25 reasons:
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27 a. California Labor Code section 512(a), which requires that employees be given a 30-
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minute uninterrupted meal break after five (5) hours of work, and a second uninterrupted meal break after ten (10) hours of work;

- b. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- c. California Industrial Welfare Commission Order No. 1 and/or 7 section 11(B), as codified under Title 8 of the California Code of Regulations Section 11010 and/or 11070, which state that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 1 and/or 7 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11010 and/or 11070, which require an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 1 and/or 7 Section 20(A), as codified under California Code of Regulations Section 11010 and/or 11070, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and

1 f. California Labor Code section 1171 and 1173, which have given the California
2 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order nos. 1
3 and/or 7) as enforceable law.

4 87. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
5 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
6 take a second relieved meal break after ten (10) hours of work, as required by California law.
7 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
8 1 and/or 7, as codified under California Code of Regulations Sections 11010 and/or 11070 et.
9 seq., require that employees receive uninterrupted meal periods every five (5) hours of
10 consecutive work, and that the meal period be at least 30 minutes in length, wherein employee
11 is relieved of all work duty. California Labor Code section 226.7 provides that employers may
12 not require their employees to work through their meal periods. California Labor Code section
13 226.7 and California Code of Regulations section 11010 and/or 11070 require that if the
14 employer fails to provide the employee with an uninterrupted meal period, the employer must
15 pay the employee one (1) hour of pay for each workday that the meal period is not given.
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18 88. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
19 regulations, and wage orders alleged in this cause of action along with any allowable interest,
20 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
21 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

22 89. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
23 fees as well as interest under Labor Code section 218.6.

24 90. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
25 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
26 trial.

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1 during the PAGA period.

2 97. Based on the acts alleged above, Plaintiff, on behalf of himself and all other hourly,
3 non-exempt employees who worked for CANTON in the State of California during
4 the applicable PAGA period, seeks penalties under California Labor Code sections 2698 and
5 2699 because of Defendants' violations of numerous provisions of the California Labor Code
6 as alleged in this Complaint.

7 98. Plaintiff therefore has exhausted all administrative remedies required of him under
8 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
9 cause of action and pursue penalties in a representative action for Defendants' violations of the
10 Labor Code.

11 99. California Labor Code section 2699 et seq. imposes penalties upon culpable
12 Defendants for violating the Labor Code.

13 100. California Labor Code section 558 establishes a civil penalty as follows: Any
14 employer or other person action on behalf of an employer who violates, or causes to be
15 violated, a section of this chapter or any provision regulating hours and days of work in any
16 order of the Industrial Welfare Commission (including the "Hours and Days of Work" section
17 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
18 dollars (\$50) for each underpaid employee for each pay period for which the employee was
19 underpaid ...; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
20 employee for each pay period for which the employee was underpaid ...;

21 101. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
22 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
23 seeking individual/victim specific relief or underpaid wages under this particular cause of
24 action.

25 102. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
26 law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
27 the following:

28 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 221,

1 226, 226.3, 226.7, 232, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5
2 via 2698 and 2699 and any other Labor Codes and Industrial Welfare Commission Wage
3 Orders (Order nos. 1 and/or 7) violated based on the facts alleged in this Complaint.

4 103. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
5 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
6 employees as alleged herein in an amount to be shown according to proof at trial and within the
7 jurisdictional limits of this Court.

8 **TWELFTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

10 **(Plaintiff against all Defendants and DOE Defendants, and each of them)**

11 104. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 103, inclusive, of this Complaint as thought fully set forth herein.

13 105. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
14 employee for all necessary expenditures or losses incurred by the employee in direct
15 consequence of the discharge of his or her duties."

16 106. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
17 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
18 of completing his job duties, which were not reimbursed by Defendant. These
19 costs include, but are not limited to, purchase of hand tools, including blades, in order to
20 effectuate their job duties.

21 107. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
22 and attorney's fees and costs, under Labor Code section 2802.

23 **THIRTEENTH CAUSE OF ACTION**

24 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

25 **(California Business and Professions Code Section 17200)**

26 **(Plaintiff against All Named Defendants and all DOE defendants)**

1 108. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 107, inclusive, of this Complaint as though fully set forth herein.

3 109. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
4 constitutes unfair and unlawful business practices under California Business and Professions
5 Code Section 17200, et seq.

6 110. Defendant's violations of California labor laws constitutes a business practice because
7 it was done repeatedly over a significant period of time in a systematic manner that was
8 detrimental to Plaintiff and other similarly situated aggrieved employees.

9 111. For the four years preceding the filing of this action, Plaintiff has suffered damages
10 and request damages and/or restitution of all monies and profits to be disgorged from
11 Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of
12 this Court.

13 **PRAYER FOR RELIEF**

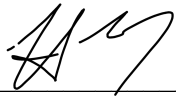
14 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
15 follows:

- 16 1. For compensatory damages including regular wages and overtime wages, according to
17 proof at trial;
- 18 2. For special damages to the extent allowed by law, according to proof at trial;
- 19 3. For restitution and disgorgement for all unfair business practices by Defendants against
20 Plaintiff in an amount according to proof;
- 21 4. For an order enjoining Defendants from further unfair and unlawful business practices
22 in violation of Business and Professions Code section 17200, et seq.;
- 23 5. For damages and penalties against Defendants under Labor Code section
24 226 for Plaintiff in an amount subject to proof at trial;
- 25 6. For damages and penalties pursuant to Labor Code section 203 against Defendants in
26 an amount subject to proof at trial;
- 27
- 28

7. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claim;
8. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law;
9. For the imposition of civil penalties and/or statutory penalties;
10. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., and the California Labor Code;
11. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
12. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half (3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.
13. Costs and expenses of suit incurred herein;
14. For all interest as allowed by law;
15. For such other and further relief as the Court deems just and proper.

DATED: January 25, 2021

MESSRELIAN LAW INC.

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Pedro Torres

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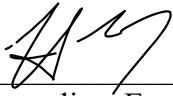
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

DATED: January 14, 2021

MESSRELIAN LAW INC.

By  _____
Harout Messrelia, Esq.
Attorneys for Plaintiff Pedro Torres