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ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

06/03/2021
Clerk of the Court

BY: BOWMAN LIU
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

JOSE SOTO RODRIGUEZ, an individual;
and on behalf of other members of the
general public similarly situated and other
aggrieved employees,

Plaintiffs,

v.

WEDGE ROOFING, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. CGC-20-587823

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR DAMAGES AND INJUNCTIVE RELIEF**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Pay Meal Period Premiums;
4. Failure to Pay Rest Period Premiums;
5. Failure to Provide Accurate Itemized Wage Statements;
6. Failure to Pay All Wages Due at Separation;
7. Failure to Reimburse Necessary Business Expenses; and
8. Unfair Competition; and
9. Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 Plaintiff JOSE SOTO RODRIGUEZ (“Plaintiff”), an individual, and on behalf of other
2 members of the general public similarly situated and other aggrieved employees, allege and complain
3 against WEDGE ROOFING, INC., a California corporation, and DOES 1 through 10, inclusive,
4 (collectively referred to as “Defendants”):

5 **INTRODUCTION**

6 1. Plaintiff brings this First Amended Class and Representative Action Complaint
7 (“FAC”) on behalf of himself, other aggrieved employees pursuant to the California Labor Code
8 Private Attorneys General Act of 2004 (“PAGA”), and all other similarly situated current and former
9 non-exempt hourly employees working as roofers in California for WEDGE ROOFING, INC., a
10 California Corporation, and DOES 1 through 10, inclusive.

11 2. This FAC involves Defendants’ systematic failure to comply with the California Labor
12 Code and Industrial Welfare Commission Wage Order No. 16-2001 (“IWC Wage Order No. 16”),
13 which regulates certain on-site occupations in the construction, drilling, logging, and mining
14 industries, including roofers.

15 3. At all times relevant to this FAC, Defendants employed Plaintiff in California as a
16 roofer and classified him as a non-exempt hourly employee.

17 4. At all times relevant to this FAC, Defendants employed many other employees as
18 roofers in California and classified them as non-exempt hourly employees.

19 5. Beginning at least four (4) years prior to the filing of the initial Class Action Complaint,
20 which was filed on November 5, 2020, and continuing through the present (the “Class Period”),
21 Defendants implemented uniform, standardized wage and hour policies and practices that applied to
22 Plaintiff and other roofers working as non-exempt hourly employees in California.

23 6. In implementing these uniform, standardized wage and hour policies and practices,
24 which applied to Plaintiff and other similarly situated current and former non-exempt employees
25 working as roofers for Defendants in California during the Class Period, Defendants systematically
26 violated the California Labor Code and IWC Wage Order No. 16 by: (1) failing to pay minimum
27 wages; (2) failing to pay overtime wages; (3) failing to pay meal period premiums; (4) failing to pay
28 rest period premiums; (5) failing to provide accurate itemized wage statements; (6) failing to pay

1 wages due at termination; (7) failing to reimburse necessary business expenses; and (8) engaging in
2 unfair competition.

3 7. Seeking redress for Defendants' systematic violations of California's wage and hour
4 laws, Plaintiff, on behalf of himself and all other similarly situated current and former non-exempt
5 hourly employees working as roofers for Defendants in California during the Class Period, brings this
6 FAC for the recovery of unpaid wages, statutory penalties, equitable relief, and civil penalties under
7 the California Labor Code, IWC Wage Order No. 16, and the California Business & Professions Code.

8 **JURISDICTION AND VENUE**

9 8. Plaintiff, on behalf of himself and all other similarly situated current and former non-
10 exempt hourly employees working as roofers for Defendants in California during the Class Period,
11 brings this FAC for recovery of unpaid wages, statutory penalties, and equitable relief under California
12 Labor Code sections 201 to 204, 226, 226.7, 510, 512, 1182.12, 1194 et seq., 1197, 1198, 2802, IWC
13 Wage Order No. 16, and California Business & Professions Code section 17200 et. seq.

14 9. Plaintiff brings this FAC pursuant to California Code of Civil Procedure section 382
15 because: the consent of all parties cannot be obtained; a question of common or general interest exists;
16 the parties are numerous; and it is impractical to bring all the parties before the court.

17 10. The monetary damages and restitution sought by Plaintiff, on behalf of himself and
18 other similarly situated employees working as roofers for Defendants in California during the Class
19 Period, exceed the minimal jurisdiction limits of the Superior Court of California and will be
20 established according to proof at trial.

21 11. This Court has original jurisdiction over this FAC pursuant to Article VI, Section 10,
22 of the California Constitution, which grants the Superior Court of California "original jurisdiction in
23 all other causes," except those causes given by statute to other courts. The statutes under which
24 Plaintiff alleges the cause of action in this FAC do not specify any other jurisdictional basis.

25 12. This Court has personal jurisdiction over Defendants because they are residents and/or
26 conduct business in California.

27 13. Venue is proper in the County of San Francisco pursuant to California Code of Civil
28 Procedure section 395.5. At all times relevant to this FAC, Defendants employed Plaintiff and other

1 similarly situated current and former non-exempt hourly employees working as roofers for Defendants
2 in California during the Class Period to perform work at numerous job sites in the County of San
3 Francisco.

4 **PARTIES**

5 14. At all times relevant to this FAC, Plaintiff JOSE SOTO RODRIGUEZ worked as a
6 roofer for Defendants in California during the Class Period. Defendants employed Plaintiff as a roofer
7 from August 22, 2017, to March 23, 2020. Defendants classified Plaintiff as a non-exempt hourly
8 employee and paid him \$18 to \$27 per hour.

9 15. Defendant WEDGE ROOFING, INC. (“Wedge Roofing”), is a California Corporation
10 and operates as a roofing contractor. Defendant WEDGE ROOFING, INC.’s principal place of
11 business is located at: 5 Casa Grande Road, Petaluma, California 94954.

12 16. The true names and capacities of defendants DOES 1 through 10 inclusive, whether
13 corporate, associate, individual, or otherwise, are unknown to Plaintiff and Plaintiff therefore sues
14 these DOE defendants by fictitious names. On information and belief, each of the DOE defendants is
15 liable for the unlawful acts alleged in this FAC and proximately caused the injuries and damages to
16 Plaintiff. Once Plaintiff ascertains the true names and capacities of these DOE Defendants, Plaintiff
17 will seek leave of court to file a Second Amended Class and Representative Action Complaint.

18 **CLASS ACTION ALLEGATIONS**

19 17. Plaintiff brings this FAC on behalf of himself and all other similarly situated current
20 and former non-exempt hourly employees working as roofers for Defendants in California during the
21 Class Period, who were affected by Defendants’ violations of the California Labor Code, IWC Wage
22 Order No. 16, and Business and Professions Code section 17200 et seq.

23 18. Plaintiff brings this FAC pursuant to California Code of Civil Procedure section 382
24 because: the consent of all parties cannot be obtained; a question of common or general interest exists
25 (as defined below); the parties are numerous; and it is impractical to bring all the parties before the
26 court.

27 19. **Relevant Time Period:** The Relevant Time Period is the time period beginning four
28 years prior to the filing of the initial Class Action Complaint until the Court enters judgment.

1 20. **Class Definitions:**

2 a. **Minimum Wage Class:** All of Defendants' current and former non-exempt
3 employees engaged in roofing services in California who were subject to Defendants' timekeeping
4 policies/practices during the Relevant Time Period.

5 b. **Overtime Class:** All of Defendants' current and former non-exempt employees
6 engaged in roofing services in California who worked more than eight hours per workday and/or forty
7 hours per workweek and/or seven consecutive workdays in a workweek and were subjected to
8 Defendants' timekeeping policies and practices during the Relevant Time Period.

9 c. **Meal Period Class:** All of Defendants' current and former non-exempt
10 employees engaged in roofing services in California who worked at least one shift in excess of five
11 (5.0) hours during the Relevant Time Period.

12 d. **Rest Period Class:** All of Defendants' current and former non-exempt
13 employees engaged in roofing services in California who worked at least one shift in excess of three
14 and one-half (3.5) hours during the Relevant Time Period.

15 e. **Wage Statement Penalty Class:** All of Defendants' current and former non-
16 exempt employees engaged in roofing services in California who received a wage statement from
17 Defendants during the period beginning at least one year before the filing of the initial Class Action
18 Complaint until the court enters final judgment.

19 f. **Waiting Time Penalty Class:** All of Defendants' non-exempt employees
20 engaged in roofing services in California who separated from their employment with Defendants
21 during the period beginning three years before the filing of the initial Class Action Complaint until the
22 court enters final judgment.

23 g. **Business Expenses Reimbursement Class:** All of Defendants' current and
24 former non-exempt employees engaged in roofing services in California who incurred necessary
25 business expenses during their employment with Defendants and who were not reimbursed by
26 Defendants for those expenses during the Relevant Time Period.

27 h. **UCL Class:** All members of the: (i) Minimum Wage Class; (ii) Overtime
28 Class; (iii) Meal Period Class; (iv) Rest Period Class; (v) Wage Statement Penalty Class; (vi) Waiting

1 Time Penalty Class; and (vii) Business Expenses Reimbursement Class.

2 21. Members of the Classes described above will be collectively referred to as “Class
3 Members” in this FAC.

4 22. **Numerosity:** The Class Members are so numerous that joinder of all Class Members
5 is impracticable. While Plaintiff does not currently know the exact number of Class Members, Plaintiff
6 is informed and believes, and thereupon alleges that the actual number exceeds the minimum required
7 for numerosity under California law. The total number and identities of the Class Members can be
8 readily ascertained by inspecting Defendants’ employment records.

9 23. **Commonality and Predominance:** Common questions of law and fact exist for all
10 Class Members and predominate over any questions that affect only individual Class Members. Some
11 of these common questions of law and fact are:

12 a. Whether Defendants had a corporate policy and/or practice of failing to pay
13 their hourly non-exempt employees engaged in roofing services in California for all hours worked;

14 b. Whether Defendants failed to pay minimum wages to Plaintiff and other
15 Minimum Wage Class Members for all hours worked;

16 c. Whether Defendants failed to pay overtime wages to Plaintiff and other
17 Overtime Class Members for all overtime hours worked;

18 d. Whether Defendants willfully failed to pay wages, including minimum and
19 overtime wages, without abatement or reduction in accordance with the California Labor Code and
20 IWC Wage Order No. 16;

21 e. Whether Defendants required Plaintiff and other Overtime Class Members to
22 work over eight (8) hours per workday and/or over forty (40) hours per workweek and/or seven
23 consecutive workdays in a workweek and failed to pay the legally required overtime wages to Plaintiff
24 and other Overtime Class Members;

25 f. Whether Defendants had a corporate policy and/or practice of failing to pay
26 Plaintiff and other Meal Period Class Members and/or other Rest Period Class Members premium pay
27 for non-compliant meal and rest periods (short, late, interrupted, and/or missed altogether) in violation
28 of California law;

1 g. Whether Defendants deprived Plaintiff and other Meal Period Class Members
2 and/or other Rest Period Class Members of meal and/or rest periods or required Plaintiff and other
3 Meal Period Class Members and/or other Rest Period Class Members to work during meal and/or rest
4 periods without compensation;

5 h. Whether Defendants willfully failed to timely pay all wages due to Plaintiff and
6 other Waiting Time Penalty Class Members;

7 i. Whether Defendants willfully failed to pay all wages due to Plaintiff and other
8 Waiting Time Penalty Class Members within the required time upon their separation–discharge or
9 resignation;

10 j. Whether Defendants willfully failed provided accurate, itemized wage
11 statements to Plaintiff and Wage Statement Class Members as required by California law;

12 k. Whether Defendants failed to reimburse Plaintiff and other Business Expenses
13 Reimbursement Class Members for necessary business-related expenses and costs;

14 l. Whether Defendants engaged in unfair business practices in violation of
15 California Business & Professions Code section 17200 et seq.;

16 m. Whether Plaintiff and Class Members can recover compensatory damages
17 pursuant to the California Labor Code and IWC Wage Order No. 16; and

18 n. The appropriate amount of damages, restitution, and/or monetary penalties
19 resulting from Defendants’ violations of California law.

20 24. **Typicality:** Plaintiff’s claims are typical of the claims of other Class Members because
21 of Defendants’ policies and/or practices of failing to comply with the California Labor Code, IWC
22 Wage Order No. 16, and the Business and Professions Code, as alleged in this FAC.

23 25. **Adequacy:** Plaintiff will fairly and adequately protect the interests of each Class
24 Member, with whom he has a well-defined community of interest and typicality of claims, as alleged
25 in this FAC. Plaintiff has no interest that is antagonistic to other Class Members. Plaintiff’s attorneys,
26 the proposed class counsel, are versed in the rules governing class action discovery, certification, and
27 settlement. Plaintiff has and will continue to incur costs and attorneys’ fees that have and will
28 necessarily be expended for the prosecution of this FAC for the substantial benefit of each Class

1 Member.

2 26. **Superiority:** A class action is superior to other available methods for the fair and
3 efficient adjudication of this litigation because individual joinder of all Class Members is impractical.

4 27. **Public Policy Considerations:** Certification of this FAC as a class action will advance
5 public policy objectives. Employers throughout California regularly violate employment and labor
6 laws. Current employees however are often reluctant to assert their rights individually because of fear
7 of direct and/or indirect retaliation by their employers. Class actions, on the other hand, provide
8 anonymity to Class Members who are not specifically named as Plaintiffs in the FAC, which in turn
9 facilitates the vindication of their rights without fear of direct or indirect retaliation by their employers.

10 **GENERAL ALLEGATIONS**

11 **Failure to Pay Minimum Wages**

12 28. At all times relevant to this FAC, Defendant Wedge Roofing had a policy and/or
13 practice of failing to pay Plaintiff and other Minimum Wage Class Members minimum wages for all
14 hours worked, as required by California law. Consequently, Plaintiff and other Minimum Wage Class
15 Members worked numerous off-the-clock hours for Defendant Wedge Roofing during the Class Period
16 without receiving compensation.

17 29. Defendant Wedge Roofing had a policy and/or practice of requiring Plaintiff and other
18 Minimum Wage Class Member to work off the clock without receiving compensation.

19 30. First, Defendant Wedge Roofing had a policy and/or practice of not paying Plaintiff
20 and other Minimum Wage Class Members for performing preliminary work activities. Specifically,
21 Defendant Wedge Roofing required Plaintiff and other Minimum Wage Class Members to arrive at
22 the company yard as early as two hours before they departed the company yard to the first job site.
23 During the time between arrival at the company yard and departure from the company yard, Plaintiff
24 and other Minimum Wage Class Members performed numerous preliminary work activities, such as
25 preparing the work truck and gathering the necessary tools for the day. Defendant Wedge Roofing
26 neither recorded the times Plaintiff and other Minimum Wage Class Members spent performing these
27 preliminary work activities nor compensated Plaintiff and other Minimum Wage Class Members for
28 performing these preliminary work activities.

1 31. Second, Defendant Wedge Roofing had a policy and/or practice of not paying Plaintiff
2 and other Minimum Wage Class Members for travel time. Specifically, after Plaintiff and other
3 Minimum Wage Class Members completed the preliminary work activities, Plaintiff and other Class
4 Minimum Wage Class Members departed Defendant Wedge Roofing's yard in group work trucks.
5 Except for the driver, none of the passengers received compensation for travel time incurred from
6 Defendant Wedge Roofing's yard to the first job site. In addition, except for the driver, none of the
7 passengers received compensation for travel time incurred from the final job site back to Defendant
8 Wedge Roofing's yard.

9 32. Third, Defendant Wedge Roofing had a policy and/or practice of not paying Plaintiff
10 and other Minimum Wage Class Members for performing postliminary work activities. Specifically,
11 when Plaintiff and other Minimum Wage Class Members arrived back at Defendant Wedge Roofing's
12 yard from the final job site, Plaintiff and other Class Members performed numerous postliminary work
13 activities for as long as 30 minutes, such as cleaning the work truck and unloading and cleaning the
14 work tools. Defendant Wedge Roofing neither recorded the time Plaintiff and other Minimum Wage
15 Class Members spent performing these postliminary work activities nor compensated Plaintiff and
16 other Minimum Wage Class Members for performing these postliminary work activities.

17 **Failure to Pay Overtime Wages**

18 33. At all times relevant to this FAC, Defendant Wedge Roofing had a policy and/or
19 practice of failing to pay all overtime compensation owed to Plaintiff and other Overtime Class
20 Members, as required by California law.

21 34. Defendant Wedge Roofing had a policy and/or practice of paying Plaintiff and other
22 Overtime Class Members overtime compensation for hours worked in excess of ten (10) hours per
23 workday. California law however required Defendants to pay Plaintiff and other Overtime Class
24 Members overtime compensation for hours worked in excess of eight (8) hours in a workday.
25 Defendants consequently failed to pay Plaintiff and other Overtime Class Members all overtime
26 compensation for all hours Plaintiff and other Overtime Class Members worked in excess of eight (8)
27 hours in a workday and/or in excess of forty (40) hours in a workweek. Furthermore, Defendants also
28 consequently failed to pay all double time compensation owed to Plaintiff and other Overtime Class

1 Members for all hours Plaintiff and other Overtime Class Members worked in excess of twelve (12)
2 hours in a workday.

3 35. Defendant Wedge Roofing failed to pay all overtime and double time compensation
4 owed to Plaintiff and other Overtime Class Members for three reasons. First, Defendant Wedge
5 Roofing had a policy and/or practice of paying overtime compensation for hours worked in excess of
6 ten (10) hours per workday, instead of hours worked in excess of eight (8) hours per workday, as
7 required by California Law. Second, Defendant Wedge Roofing had a policy and/or practice of not
8 paying Plaintiff and other Overtime Class Members for all of the preliminary and postliminary work
9 activities that Plaintiff and other Overtime Class Members worked “off-the-clock.” Third, despite
10 being under Defendant Wedge Roofing’s control, except for the driver, Defendant Wedge Roofing
11 failed to pay for travel time that Plaintiff and other Overtime Class Members incurred from the
12 company yard to the first job site and from the final job site back to the company yard.

13 36. Because of these three policies and/or practices, Defendant Wedge Roofing failed to
14 pay Plaintiff and other Overtime Class Members all overtime compensation for all hours Plaintiff and
15 other Overtime Class Members worked in excess of eight (8) hours in a workday and/or in excess of
16 forty (40) hours in a workweek. Furthermore, Defendants also failed to pay Plaintiff and other
17 Overtime Class Members all double time compensation for all hours Plaintiff and other Overtime
18 Class Members worked in excess of (12) hours in a workday.

19 **Failure to Pay Premium Pay for Non-Compliant Meal Periods**

20 37. At all times relevant to this FAC, Defendant Wedge Roofing had a policy and/or
21 practice of failing to provide Plaintiff and other Meal Period Class Members with compliant meal
22 periods.

23 38. At all times relevant to this FAC, Defendant Wedge Roofing also had a policy and/or
24 practice of failing to provide Plaintiff and other Meal Period Class Members with meal period
25 premium pay when Defendant Wedge Roofing failed to provide Plaintiff and other Meal Period Class
26 Members with compliant meal periods, as required by California law.

27 39. On most workdays, Defendant Wedge Roofing failed to provide Plaintiff and other
28 Meal Period Class Members with their first meal period before the end of the fifth hour of work in

1 violation of California law. Defendant Wedge Roofing's supervisors determined when Plaintiff and
2 other Meal Period Class Members received meal periods and most of the time Defendant Wedge
3 Roofing's supervisors did not permit Plaintiff and other Meal Period Class Members with the
4 opportunity to take their first meal periods before the end of their fifth hour of work. In addition,
5 Plaintiff and other Meal Period Class Members did not complete their own time sheets and most of
6 the time Defendant Wedge Roofing's supervisors did not accurately record the exact start and stop
7 times for each meal period.

8 40. Defendant Wedge Roofing also failed to provide Plaintiff and other Meal Period Class
9 Members with a second meal period on days when Plaintiff and other Meal Period Class Members
10 worked more than ten (10) hours in a day in violation of California law.

11 41. Defendant Wedge Roofing knew or should have known that, as result of its failure to
12 track and record all off-the-clock hours worked, its failure to account for travel time as hours worked,
13 its inaccurate recording of the beginning and ending of meal periods, and the pressure imposed on
14 workers to complete jobs quickly, that it failed provide Plaintiff and other Meal Period Class Members
15 with timely and compliant first meal periods and failed provide Plaintiff and other Meal Period Class
16 Members with second meal periods on days when Plaintiff and other Meal Period Class Members
17 worked more than ten (10) hours in workday.

18 42. Defendant Wedge Roofing also knew or should have known that it did not pay Plaintiff
19 and other Meal Period Class Members meal period premium pay for noncompliant first meal periods
20 and for missed second meal periods.

21 **Failure to Pay Premium Pay for Non-Compliant Rest Periods**

22 43. At all times relevant to this FAC, Defendant Wedge Roofing had a policy and/or
23 practice of failing to provide Plaintiff and other Rest Period Class Members with compliant rest
24 periods.

25 44. At all times relevant to this FAC, Defendant Wedge Roofing also had a policy and/or
26 practice of failing to provide Plaintiff and other Rest Period Class Members with rest period premium
27 pay when Defendant Wedge Roofing failed to provide Plaintiff and other Rest Period Class Members
28 with compliant rest periods.

1 45. Instead of providing the first rest period in the middle of the work period, Defendant
2 Wedge Roofing had a policy and/or practice of combining the first rest period with the first meal
3 period without any practical business justification in violation of California law.

4 46. Furthermore, based on the nature of the work schedule and the pressure to complete
5 jobs quickly, Defendant Wedge Roofing failed provide Plaintiff and other Rest Period Class Members
6 with their second rest periods.

7 47. Defendant Wedge Roofing failed to pay Plaintiff and other Rest Period Class Members
8 rest period premium pay on days that Defendant Wedge Roofing combined the first rest period with
9 the first meal period without any business justification and on days when Defendant Wedge Roofing
10 failed to provide Plaintiff and other Rest Period Class Members with second rest periods, as required
11 by California law.

12 **Failure to Provide Compliant Wage Statements and Maintain Required Payroll Records**

13 48. Because Defendant Wedge Roofing had a policy and/or practice of failing to pay
14 Plaintiff and other Minimum Wage Class Members and other Overtime Class Members for all hours
15 worked and for all overtime hours worked at the correct overtime rate, Defendant Wedge Roofing
16 derivatively failed to provide Plaintiff and other Wage Statement Penalty Class Members with accurate
17 itemized wage statements during the Class Period.

18 49. First, Defendant Wedge Roofing failed to provide Plaintiff and other Wage Statement
19 Penalty Class Members with accurate itemized wage statements listing all gross wages earned in
20 violation of California Labor sections 226, subdivisions (a)(1).

21 50. Second, Defendant Wedge Roofing failed to provide Plaintiff and other Wage
22 Statement Penalty Class Members with accurate itemized wage statements listing total hours worked
23 in violation of California Labor Code section 226, subdivision (a)(2).

24 51. Third, Defendant Wedge Roofing failed to provide Plaintiff and other Wage Statement
25 Penalty Class Members with accurate itemized wage statements listing all net wages earned in
26 violation of California Labor sections 226, subdivisions (a)(5).

27 52. Fourth, Defendant Wedge Roofing failed to provide Plaintiff and other Wage Statement
28 Penalty Class Members with accurate itemized wage statements listing all hourly rates in violation of

1 California Labor sections 226, subdivisions (a)(9).

2 53. Defendant Wedge Roofing also failed to provide Plaintiff and other Wage Statement
3 Penalty Class Members with accurate, itemized wage statements in violation of California Labor Code
4 section 226, subdivision (a)(8), because Defendant Wedge Roofing had a policy and/or practice of
5 failing to list the name of Plaintiff's and other Wage Statement Penalty Class Member's legal
6 employer.

7 **Failure to Timely Pay Final Wages Upon Termination**

8 54. Because Defendant Wedge Roofing had a policy and/or practice of failing to pay
9 Plaintiff and other Minimum Wage Class Members and other Overtime Class Members for all hours
10 worked and for all overtime hours worked at the correct overtime rate, Defendant Wedge Roofing
11 derivatively failed to pay Plaintiff and other Waiting Time Class Members their final wages on their
12 last day of employment or within seventy-two (72) hours of resigning without prior notice for at least
13 three years before the filing of this FAC, in violation of California Labor Code sections 201, 202, and
14 203.

15 **Failure to Reimburse Business Expenses**

16 55. At all times Relevant to this Complaint, Defendant Wedge Roofing had policy and/or
17 practice of not reimbursing Plaintiff and other Business Expenses Reimbursement Class Members for
18 necessary business expenses, in violation of California law.

19 56. At all times relevant to this FAC, Defendant Wedge Roofing failed to provide Plaintiff
20 and other Business Expenses Reimbursement Class Members with adequate tools, including but not
21 limited to: air compressors; framer's bags; carpenter's squares; paint brushes; hammers; tape
22 measures; and chalk lines. Plaintiff and other Business Expenses Reimbursement Class Members
23 instead had to pay out-of-pocket for these necessary expenses.

24 57. Defendant Wedge Roofing could have provided Plaintiff and other Business Expenses
25 Reimbursement Class Members with the actual tools for use on the job. Defendant Wedge Roofing
26 also could have reimbursed Plaintiff and other Business Expenses Reimbursement Class Members for
27 out-of-pocket expenses in purchasing tools for use on the job. Instead, Defendants Wedge Roofing
28 passed these operating costs off onto Plaintiff and other Business Expenses Reimbursement Class

Members in violation of California law.

FIRST CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

[Cal. Labor Code, §§ 1182.12, 1194, 1194.2, 1197, 1198;

IWC Wage Order No. 16-2001, § 4]

(Brought by All Plaintiffs Against All Defendants)

58. Plaintiff and other Class Members re-allege and incorporate by reference all previous paragraphs of this FAC.

59. California Labor Code sections 1182.12 and 1197, and IWC Wage Order No. 16 section 4, require Defendants to pay Plaintiff and other Minimum Wage Class Members at least the state hourly minimum wage for every hour Defendants required, suffered, or permitted Plaintiff and other Minimum Wage Class Members to work during the Class Period.

60. California Labor Code section 1198 makes unlawful the employment of an employee under conditions the IWC prohibits. California Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a), provide that an employer that fails to pay its employees the legal minimum wage is liable to the employees for the unpaid balance of the unpaid wages, interest at a rate of 10 percent per annum under California Labor Code section 218.6, and liquidated damages in an amount equal to the unpaid wages.

61. At all times relevant time to this FAC, Defendants had a policy and/or practice of failing to pay Plaintiff and other Minimum Wage Class Members at least the minimum wage for all hours Plaintiff and other Minimum Wage Class Members worked for Defendants in violation of California Labor Code sections 1182.12, 1194, 1197, including: time that Defendants required, suffered, or permitted Plaintiff and other Minimum Wage Class Members to work performing preliminary work activities; time Plaintiff and other Minimum Wage Class Members incurred travelling from the company yard to the first job site; time Plaintiff and other Minimum Wage Class Members incurred travelling from final job site to the company yard; and time that Defendants required, suffered, or permitted Plaintiff and other Minimum Wage Class Members to work performing postliminary work activities.

62. Defendants knowingly and willfully failed to pay Plaintiff and other Minimum Wage Class Members minimum wages for all hours they worked for Defendants as required by California law.

63. As a direct and proximate result of Defendants' failure to pay Plaintiff and other Minimum Wage Class Members minimum wages for all hours they worked for Defendants as required by California law, Plaintiff and Class Members sustained damages.

64. Pursuant to California Labor Code sections 1194, 1194.2, and 1197, Plaintiff and other Minimum Wage Class Members can recover from Defendants the unpaid balance of their unpaid minimum wages, as well as interest at a rate of 10 percent per annum under California Labor Code section 218.6, costs, liquidated damages in an amount equal to the wages unlawfully unpaid, and attorneys' fees.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

[Cal. Labor Code, §§ 1194 and 1198; IWC Wage Order No. 16-2001, § 3]

(Brought by All Plaintiffs Against All Defendants)

65. Plaintiff and other Class Members re-allege and incorporate by reference all previous paragraphs of this FAC.

66. California Labor Code sections 510, 1194, and 1198, and IWC Wage Order No. 16 require Defendants to pay Plaintiff and other Overtime Class Members overtime wages at the correct overtime rate for all overtime hours Defendants required, suffered, or permitted Plaintiff and other Overtime Class Members to work during the Class Period.

67. California Labor Code section 1198 makes unlawful the employment of an employee under conditions the IWC prohibits. Moreover, California Labor Code section 510 and IWC Wage Order No. 16 section 3 require employers to pay hourly, non-exempt employees overtime wages at one and-one-half times the employee's regular hourly rate for hours worked in excess of eight (8) hours in a workday or forty (40) hours in a workweek or for the first eight (8) hours worked on the seventh day of work, and to pay overtime wages at double the employee's regular hourly rate for hours worked in excess of twelve (12) hours in a workday or in excess of eight (8) hours in a workday on

1 the seventh day of work. Lastly, pursuant to California Labor Code section 1194, subdivision (a), an
2 employee can recover the unpaid balance of all unpaid overtime compensation.

3 68. At all times relevant to this FAC, Plaintiff and other Overtime Class Members regularly
4 worked overtime hours on a daily and weekly basis.

5 69. At all times relevant to this FAC, Defendants failed to pay overtime wages to Plaintiff
6 and other Overtime Class Members as required by the California Labor Code and IWC Wage Order
7 No. 16 section 3 because of the following three polies and/or practices that applied to Plaintiff and
8 other Overtime Class Members' employment with Defendants during the Class Period.

9 70. First, Defendant Wedge Roofing had a policy and/or practice of paying overtime for
10 hours worked in excess of ten (10) hours per workday, instead of hours worked in excess of eight (8)
11 hours per workday, in violation of California Law.

12 71. Second, Defendant Wedge Roofing had a policy and/or practice of failing to pay
13 Plaintiff and other Overtime Class Members for all the preliminary and postliminary work activities
14 that Defendant Wedge Roofing suffered or permitted Plaintiff and other Overtime Class Members to
15 work "off-the-clock."

16 72. Third, despite being under Defendant Wedge Roofing's control, except for the driver,
17 Defendant Wedge Roofing had a policy and/or practice of failing to pay for necessary travel time that
18 Plaintiff and other Overtime Class Members incurred from the company yard to the first job site and
19 from the final job site back to the company yard.

20 73. Defendants knowingly and willfully failed to pay Plaintiff and other Overtime Class
21 Members overtime wages at the correct overtime rate for all overtime hours that Defendants required,
22 suffered, or permitted Plaintiff and other Overtime Class Members to work during the Class Period.

23 74. As a direct and proximate result of Defendants' failure to pay Plaintiff and other
24 Overtime Class Members all overtime wages at the correct overtime rate for all overtime hours that
25 Defendants required, suffered, or permitted Plaintiff and other Overtime Class Members to work
26 during the Class Period as required by California law, Plaintiffs and members of the Overtime Class
27 sustained damages.

28 75. Pursuant to California Labor Code section 1194, subdivision (a), Plaintiff and other

1 Overtime Class Members can recover from Defendants their unpaid overtime compensation, as well
2 as interest thereon at a rate of ten percent per annum under California Labor Code section 218.6, costs,
3 and attorneys' fees.

4 **THIRD CAUSE OF ACTION**

5 **FAILURE TO PAY MEAL PERIOD PREMIUMS**

6 **[Cal. Labor Code, §§ 226.7 and 512, subd. (a); IWC Wage Order No. 16-2001, § 10]**

7 **(Brought by All Plaintiffs Against All Defendants)**

8 76. Plaintiff and other Class Members re-allege and incorporate by reference all previous
9 paragraphs of this FAC.

10 77. California Labor Code section 1198 makes unlawful the employment of an employee
11 under conditions the IWC prohibits.

12 78. California Labor Code section 226.7, subdivision (b), makes it unlawful for employers
13 to require hourly, non-exempt employees to work during any meal period mandated by an applicable
14 IWC Order.

15 79. California Labor Code section 512 and IWC Wage Order No. 16 section 10, subsection
16 (A), prohibit employers from employing a worker for more than five hours without providing a meal
17 period of at least 30 minutes. California Labor Code section 512 also prohibits employers from
18 employing a worker for more than 10 hours without providing a second meal period of at least 30
19 minutes.

20 80. California Labor Code section 512, subdivision (a), and IWC Wage Order No. 16
21 section 10, subsection (B), also make it unlawful for an employer, like Defendants, to require, suffer,
22 or permit an employee to work for a work period of more than ten (10) hours per day without providing
23 the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that
24 when the total hours worked is no more than twelve (12) hours, the second meal period may be waived
25 by mutual consent of the employer and the employee but only if the first meal period was not waived
26 by the employee.

27 81. Under both California Labor Code section 226.7, subdivision (c), and IWC Wage Order
28 No. 16 section 10, subsection (F), if an employer fails to provide an employee with a compliant meal

1 period, the employer must pay the employee one hour of pay at the employee's regular rate of pay for
2 each workday that the employer did not provide the employee with a compliant meal period.

3 82. At all times relevant to this Complaint, Defendants failed to provide Plaintiff and other
4 Meal Period Class Members with meal periods that complied with California Labor Code sections
5 226.7 and 512 and IWC Wage Order No. 16. First, on most workdays, Defendant Wedge Roofing
6 failed to provide Plaintiff and other Meal Period Class Members with a timely first meal period
7 because Defendant Wedge Roofing's supervisors did not permit Plaintiff and other Meal Period Class
8 Members with the opportunity to take their first meal periods before the end of their fifth hour of work.
9 Second, Defendant Wedge Roofing failed to provide Plaintiff and other Meal Period Class Members
10 with second meal periods on days when Plaintiff and other Meal Period Class Members worked more
11 than ten (10) hours in a workday.

12 83. At all times relevant to this Complaint, Defendants failed to pay Plaintiff and other
13 Meal Period Class Members premium pay when Defendants failed to provide them with compliant
14 meal periods in accordance with California Labor Code sections 226.7 and 512 and IWC Wage Order
15 No. 16.

16 84. At all times relevant to this Complaint, Defendants knowingly and willfully failed to
17 pay Plaintiff and other Meal Period Class Members premium pay when Defendants failed to provide
18 them with compliant meal periods as required by California law.

19 85. As a direct and proximate result of Defendants' failure to pay premiums when
20 Defendants failed to provide Plaintiff and Meal Period Class Member with compliant meal periods as
21 required by California law, Plaintiff and other Meal Period Class Members sustained economic
22 damages.

23 86. Pursuant to California Labor Code section 226.7, subdivision (c), and IWC Wage Order
24 No. 16 section 10, subdivision (F), Plaintiff and other Meal Period Class Members can recover from
25 Defendants one additional hour of pay at Plaintiff's and other Meal Period Class Member's regular
26 hourly rate of pay for each workday that Defendants failed to provide them with a compliant meal
27 period as required by California law, interest thereon at a rate of seven percent per annum under
28 California Civil Code section 3287, and costs of suit.

1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PAY REST PERIOD PREMIUMS**

3 **[Cal. Labor Code, § 226.7; IWC Wage Order No. 16-2001, § 11]**

4 **(Brought by All Plaintiffs Against All Defendants)**

5 87. Plaintiff and other Class Members re-allege and incorporate by reference all previous
6 paragraphs of this FAC.

7 88. California Labor Code section 1198 makes unlawful the employment of an employee
8 under conditions the IWC prohibits.

9 89. California Labor Code section 226.7, subdivision (b), prohibits an employer from
10 requiring an employee to work during any rest period required by an applicable IWC Wage Order.
11 IWC Wage Order 16 section 11, subsection (A), requires employers to authorize and permit employees
12 who work three and one half or more hours in a workday to take a paid rest period of at least 10
13 minutes for every four hours worked or major fraction thereof, which insofar as practicable shall be in
14 the middle of each work period.

15 90. Under both California Labor Code section 226.7, subdivision (c), and IWC Wage Order
16 No. 16 section 11, subsection (D), if an employer fails to provide an employee with a compliant rest
17 period, the employer must pay the employee one hour of pay at the employee's regular rate of pay for
18 each workday that the employer did not provide a compliant rest period.

19 91. At all times relevant to this Complaint, Defendants failed to provide Plaintiff and other
20 Rest Period Class Members with rest periods that complied with California Labor Code 226.7 and
21 IWC Wage Order No. 16. First, instead of providing the first rest period in the middle of the work
22 period, Defendant Wedge Roofing had a policy and/or practice of combining the first rest period with
23 the first meal period without any practical business justification during the Class Period. Second, based
24 on the nature of the work schedule and the pressure imposed on workers to complete jobs quickly,
25 Defendant Wedge Roofing failed provide Plaintiff and other Rest Period Class Members with their
26 second rest periods during the Class Period.

27 92. At all times relevant to this Complaint, Defendants failed to provide Plaintiff and other
28 Rest Period Class Members with premium pay as required by California Labor Code section 226.7

1 when Defendants failed to provide them with complaint rest periods in accordance with California
2 Labor Code sections 226.7 and 512 and IWC Wage Order No. 16.

3 93. At all times relevant to this Complaint, Defendants knowingly and willfully failed to
4 pay Plaintiff and other Rest Period Class Members premium pay when Defendants failed to provide
5 them with compliant rest periods as required by California law.

6 94. As a direct and proximate result of Defendants' failure to pay premium when
7 Defendants failed to provide Plaintiff and Rest Period Class Members with compliant rest periods as
8 required by California law, Plaintiff and other Rest Period Class Members sustained economic
9 damages.

10 95. Pursuant California Labor Code section 226.7, subdivision (c), and IWC Wage Order
11 No. 16 section (11), subsection (D), Plaintiff and other Rest Period Class Members can recover from
12 Defendants one additional hour of pay at the Plaintiff's and other Rest Period Class Members' regular
13 hourly rate of pay for each workday that Defendants failed to provide Plaintiff and other Rest Period
14 Class Members with a compliant rest period as required by California law, including interest thereon
15 at a rate of seven percent per annum under California Civil Code section 3287, and costs of suit.

16 **FIFTH CAUSE OF ACTION**

17 **FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**

18 **[Cal. Labor Code § 226; IWC Wage Order No. 16-2001, § 6]**

19 **(Brought by All Plaintiffs Against All Defendants)**

20 96. Plaintiff and other Class Members re-allege and incorporate by reference all previous
21 paragraphs of this FAC.

22 97. California Labor Code section 226, subdivision (a), requires employers to provide to
23 their employees, on a semimonthly basis or at time the employer pays wages, with an accurate itemized
24 wage statement in writing detailing the following information: (1) gross wages earned; (2) total hours
25 worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the
26 employee is paid on a piece-rate basis; (4) all deductions, provided that all a deductions made on
27 written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6)
28 the inclusive dates of the period for which the employee is paid; (7) the name of the employee and his

1 or her social security number; (8) the name and address of the legal entity that is the employer; and
2 (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours
3 worked at each hourly rate by the employee.

4 98. IWC Wage Order No. 16 section 6, subsection (B), similarly requires employers to
5 provide their employees, on a semimonthly basis or at time of the employer pays wages, with an
6 accurate itemized wage statement in writing detailing the following information: all deductions; the
7 inclusive dates of the period for which the employee is paid; the name of the employee or the
8 employee's social security number; and the name of the employer.

9 99. California Labor Code section 226, subdivision (e), provides that an employee who
10 suffers injury as a result of a knowing and intentional failure by an employer to comply with section
11 226, subdivision (a), may recover the greater of actual damages or the statutory penalty of fifty dollars
12 (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per
13 employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four
14 thousand dollars (\$4,000).

15 100. California Labor Code section 226, subdivision (e)(2)(B), provides that an employee is
16 deemed to suffer injury if the wage statement fails to accurately and completely provide certain
17 information and the employee cannot promptly and easily determine such information from the wage
18 statement alone. In relevant part, California Labor Code section 226, subdivision (e)(2)(B), provides
19 that an employee is deemed to suffer injury if the wage statement does not accurately and completely
20 state the total number of hours worked by the employee, all applicable hourly rates in effect during
21 the pay period, and the corresponding number of hours worked at each hourly rate.

22 101. Because Defendant Wedge Roofing had a policy and/or practice of failing to pay
23 Plaintiff and other Minimum Wage Class Members and other Overtime Class Members for all hours
24 worked and for all overtime hours worked at the correct overtime rate, Defendant Wedge Roofing
25 intentionally and willfully failed to provide Plaintiff and other Wage Statement Penalty Class
26 Members with accurate itemized wage statements as required by California law. First, Defendant
27 Wedge Roofing failed to provide Plaintiff and other Wage Statement Penalty Class Members with
28 accurate itemized wage statements listing all gross wages earned in violation of California Labor

1 section 226, subdivisions (a)(1). Second, Defendant Wedge Roofing failed to provide Plaintiff and
2 other Wage Statement Penalty Class Members with accurate itemized wage statements listing all hours
3 worked in violation of California Labor Code section 226, subdivision (a)(2). Third, Defendant
4 Wedge Roofing failed to provide Plaintiff and other Wage Statement Penalty Class Members with
5 accurate itemized wage statements listing all net wages earned in violation of California Labor section
6 226, subdivisions (a)(5). Fourth, Defendant Wedge Roofing failed to provide Plaintiff and other Wage
7 Statement Penalty Class Members with accurate itemized wage statements listing all hourly rates in
8 violation of California Labor section 226, subdivisions (a)(9).

9 102. Defendant Wedge Roofing also willfully and intentionally failed to provide Plaintiff
10 and other Wage Statement Penalty Class Members with accurate, itemized wage statements in
11 violation of California Labor Code section 226, subdivision (a)(8), because Defendant Wedge Roofing
12 had a policy and/or practice of failing to list the name of Plaintiff's and other Wage Statement Penalty
13 Class Member's legal employer.

14 103. Because Defendant Wedge Roofing had a policy and/or practice of failing to pay
15 Plaintiff and other Minimum Wage Class Members and other Overtime Class Members for all hours
16 worked and for all overtime hours worked at the correct overtime rate, Defendant Wedge Roofing
17 derivatively failed to provide Plaintiff and other Wage Statement Penalty Class Members with accurate
18 itemized wage statements during the Class Period.

19 104. As a direct and proximate result of Defendants' failure to provide Plaintiff and other
20 Wage Statement Penalty Class Members with accurate itemized wage statements as required by
21 California law, Plaintiff and other Wage Statement Penalty Class suffered injury and damages.

22 105. Specifically, Plaintiff and other Wage Statement Penalty Class Members were injured
23 by Defendants' intentional violation of California Labor Code section 226, subdivision (a), because
24 they were denied both their legal right and interest in receiving accurate, itemized wage statements
25 under California Labor Code section 226, subdivision (a). Plaintiff and other Wage Statement Penalty
26 Class Members were injured by Defendants' intentional violation of California Labor Code section
27 226, subdivision (a), because it has caused confusion over whether they received from Defendants all
28 the wages owed to them, in addition to their difficulty and expense in reconstructing pay records and

1 making mathematical computations to analyze whether the wages paid to them did in fact compensate
2 them for all hours worked.

3 106. Plaintiff and other Wage Statement Penalty Class Members can recover from
4 Defendants the greater of their actual damages caused by Defendants' failure to comply with
5 California Labor Code section 226, subdivision (a), or an aggregate penalty not exceeding four
6 thousand dollars per employee, reasonable attorneys' fees, and costs of suit.

7 107. California Labor Code section 226, subdivision (h), authorizes courts to issue
8 injunctive relief to remedy violations of section 226, subdivision (a). Plaintiff and other Wage
9 Statement Penalty Class Members can obtain injunctive relief enjoining Defendants: (i) to
10 immediately begin providing Plaintiff and other members of Wage Statement Penalty Class itemized
11 wage statements containing all of the information required by California Labor Code section 226,
12 subdivision (a); and (ii) to immediately provide Plaintiff and other members of the Wage Statement
13 Penalty Class the information required by California Labor Code section 226, subdivision (a), dating
14 back to those employees' beginning of employment or to the start of the applicable limitations period,
15 whichever is further back in time.

16 **SIXTH CAUSE OF ACTION**

17 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

18 **[Cal. Labor Code, §§ 201, 202, and 203]**

19 **(Brought by All Plaintiffs Against All Defendants)**

20 108. Plaintiff and other Class Members re-allege and incorporate by reference all previous
21 paragraphs of this Complaint.

22 109. California Labor Code section 201 requires an employer who discharges an employee
23 to pay all compensation due and owing to that employee immediately upon the employee's discharge
24 from employment.

25 110. California Labor Code section 202 requires an employer promptly to pay all
26 compensation due and owing to an employee within 72 hours after that employee's employment
27 terminates, including by resignation.

28 111. California Labor Code section 203 provides that if an employer willfully fails to pay
23.

1 all compensation due promptly upon discharge or resignation, as required by sections 201 and 202,
2 the employer shall be liable for waiting time penalties in the form of continued compensation for up
3 to thirty (30) days.

4 112. As alleged in this FAC, the unpaid wages owed to Plaintiff and other Waiting Time
5 Penalty Class Members at the time of termination of their employment include unpaid regular,
6 overtime, and double time wages.

7 113. At all times relevant to this FAC, by failing to properly compensate Plaintiff and other
8 Waiting Time Penalty Class Members upon separation, including but not limited to Defendants'
9 failure to properly pay Plaintiff and other Waiting Time Penalty Class Members wages for all hours
10 worked when due, i.e. minimum wages, overtime wages, and double time wages, Defendants willfully
11 failed to pay all compensation owed to Plaintiff and Waiting Time Penalty Class Members in
12 accordance with California Labor Code sections 201 and 202.

13 114. As a direct and proximate result of Defendants' failure to pay all wages due upon
14 separation, Plaintiff and other Waiting Time Penalty Class Members sustained damages.

15 115. Plaintiff and other Waiting Time Penalty Class Members can recover from Defendants
16 the statutory penalty wages for each calendar day they were not paid their owed compensation, up to
17 a thirty (30) day maximum pursuant to California Labor Code section 203.

18 **SEVENTH CAUSE OF ACTION**

19 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

20 **[Cal. Labor Code § 2802; IWC Wage Order No. 16-2001, § 8]**

21 **(Brought by All Plaintiffs Against All Defendants)**

22 116. Plaintiff and other Class Members re-allege and incorporate by reference all previous
23 paragraphs of this FAC.

24 117. California Labor Code sections 2802, subdivision (a), requires employers to reimburse
25 their employees for all necessary expenditures incurred by their employees in direct consequence of
26 the discharge of their job duties or in direct consequence of their obedience to the directions of the
27 employer.

28 118. IWC Wage Order No. 16 section 8, subdivision (B), provides: "When the employer

1 requires the use of tools or equipment or they are necessary for the performance of a job, such tools
2 and equipment shall be provided and maintained by the employer, except that an employee whose
3 wages are at least two (2) times the minimum wage may provide and maintain hand tools and
4 equipment customarily required by the particular trade or craft in conformity with Labor Code Section
5 2802.”

6 119. At all times relevant to this FAC, Defendants failed to provide Plaintiff and other
7 Business Expenses Reimbursement Class Members all tools, supplies, and equipment necessary to
8 perform their job duties including, but not limited to: air compressors; framer’s bags; carpenter’s
9 squares; paint brushes; hammers; tape measures; and chalk lines.

10 120. By requiring Plaintiff and other Business Expenses Class Members to pay for work-
11 related expenses without reimbursement, even though Plaintiff’s and other Business Expenses
12 Reimbursement Class Members’ wages were not at least twice the minimum wage, Defendants
13 violated California Labor Code section 2802 and IWC Wage Order No. 16 section 8.

14 121. Defendants knowingly and willfully failed to reimburse Plaintiff and other Business
15 Expenses Reimbursement Class Members for all necessary work-related expenses and costs.

16 122. As a direct and proximate result of Defendants’ failure to reimburse Plaintiff and other
17 Business Expenses Reimbursement Class Members for all necessary work-related expenses and costs
18 as required by California law, Plaintiff and other Business Expenses Reimbursement Class Members
19 sustained damages.

20 123. Pursuant to California Labor Code section 2802, subdivision (c), Plaintiff and other
21 Business Expenses Reimbursement Class Members can recover from Defendants their business-
22 related expenses and costs incurred during the course and scope of their employment plus interest
23 accrued from the date on which they incurred the necessary expenditures at a rate of seven percent per
24 annum per California Civil Code section 3287, reasonable attorneys’ fees, and costs of suit.

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1 **EIGHTH CAUSE OF ACTION**

2 **UNFAIR AND UNLAWFUL BUSINESS PRACTICES**

3 **[Cal. Business & Professions Code, §§ 17200 et seq.]**

4 **(Brought by All Plaintiffs Against All Defendants)**

5 124. Plaintiff and other Class Members re-allege and incorporate by reference all previous
6 paragraphs of this FAC.

7 125. As alleged in this FAC, Defendants' conduct, has been, and continues to be, unfair,
8 unlawful, and harmful to Plaintiff, other UCL Class Members, and to the general public. Plaintiff and
9 other UCL Class Members seek to enforce important rights affecting the public interest within the
10 meaning of Code of Civil Procedure section 1021.5.

11 126. As alleged in this FAC, Defendants' actions violate California law and constitute
12 unlawful business acts and practices in violation of California Business & Professions Code sections
13 17200 et seq.

14 127. A violation of California Business & Professions Code section 17200 et seq. may be
15 predicated on the violation of any state or federal law. In the present case, Defendants' policy and/or
16 practice of failing to pay all regular, overtime, and double-time wages due to Plaintiff and other UCL
17 Class Members violates California Labor Code sections 1194 and 1198 and IWC Wage Order No. 16;
18 Defendants' policy and/or practice of not providing Plaintiff and other UCL Class Members with meal
19 and rest period premiums for workdays that Plaintiff and other UCL Class Members did not receive
20 compliant meal and rest periods violates California Labor Code sections 226.7 and 512, subdivision
21 (a), and IWC Wage Order No. 16; Defendants' policy and/or practice of not timely paying all wages
22 owed to Plaintiff and Class Members upon resignation or termination violates California Labor Code
23 sections 201, 202, and 203; Defendants' policy and/or practice of not fully reimbursing Plaintiff and
24 Class Members for necessary work-related expenses and costs incurred during their employment
25 violates California Labor Code sections 2800 and 2802 and IWC Wage Order No. 16; and Defendants'
26 policy and/or practice of failing to provide accurate itemized wage statements violates California
27 Labor Code section 226 and IWC Wage Order No. 16.

28 128. As alleged in this Complaint, Defendants' unlawful business acts and practices,
26.

involve, but not necessarily limited to the loss of money and/or property.

129. Because of Defendants violations of the California Labor Code and IWC Wage Order No. 16, Plaintiff and other UCL Class Members sustained damages and/or injuries.

130. Pursuant to California Business & Professions Code sections 17200 et seq., Plaintiff and other UCL Class Members can recover from Defendants restitution in the amount of the wages unlawfully withheld and retained by Defendants during the Class Period; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and other UCL Class Members; costs; and attorneys' fees pursuant to California Code of Civil Procedure section 1021.5.

NINTH CAUSE OF ACTION

VIOLATION OF PRIVATE ATTORNEYS GENERALS ACT OF 2004 ("PAGA")

[Cal Labor Code, §§ 2698, et seq.]

(Brought by All Plaintiffs Against All Defendants)

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

132. As alleged in this FAC Defendants have committed several violations of the Labor Code against Plaintiff, Class Members, and other aggrieved employees.

133. Plaintiff on behalf of himself and other "aggrieved employees" under the PAGA bring the representative component of this Class and Representative Action against Defendants to recover civil penalties owed to Plaintiff, Class Members, other aggrieved employees, and the State of California under California Labor Code section 2699, subdivisions (a) and (f). The civil penalties sought include: (1) \$100.00 for each initial violation for each failure to timely pay each employee and \$200.00 for each subsequent violation or willful or intentional violation for each failure to timely pay each employee, plus 25 percent of the amount unlawfully withheld, pursuant to California Labor Code section 210; (2) \$100.00 for each initial violation and \$250.00 for each subsequent violation of a failure to pay minimum wages pursuant to California Labor Code section 1197.1; (3) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation of a failure to provide an accurate itemized wage statement per employee per pay period pursuant to California Labor Code section 226.3; (4) \$50.00 for each initial violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages and \$100.00 for each

1 underpaid employee for each pay period for which the employee was underpaid in addition to an
2 amount sufficient to recover underpaid wages pursuant to Labor Code section 558; (5) \$500 for failure
3 to maintain accurate and complete records required by California Labor Code section 1174; and/or (6)
4 \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay
5 period for those violations of the California Labor Code for which no civil penalty is specifically
6 provided, based on the following Labor Code violations:

7 a. Defendants violated California Labor Code sections 204, 510, 558, 1194, and
8 1198 by failing to pay Plaintiff and other aggrieved employees all overtime compensation earned;

9 b. Defendants violated California Labor Code sections 1194, 1194.2, and 1197 by
10 failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours
11 worked;

12 c. Defendants violated California Labor Code sections 226.7, 512, 516, and 558
13 by failing to authorize and permit all legally required meal and rest periods and failing to pay meal
14 and rest period premiums to Plaintiff and other aggrieved employees;

15 d. Defendants violated California Labor Code section 226 by failing to furnish
16 Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements;

17 e. Defendants violated California Labor Code section 204 by failing to pay
18 Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month;

19 f. Defendants violated California Labor Code section 1174 by failing to maintain
20 accurate records on behalf of Plaintiff and other aggrieved employees;

21 g. Defendants violated California Labor Code sections 201, 202 and 203 by failing
22 to timely pay all final wages due to Plaintiff and other aggrieved employees; and

23 h. Defendants violated California Labor Code section 2802 by failing to
24 indemnify necessary expenditures due to Plaintiff and other aggrieved employees.

25 134. On October 2, 2020, counsel for Plaintiff notified Defendants via certified mail, and
26 notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of
27 Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil
28 penalties under California Labor Code section 2698 et seq. with respect to above violations of the

1 California Labor Code. A true and correct copy of Plaintiff's letter is attached hereto as **Exhibit 1**.
2 Now that at least sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of
3 these violations and the LWDA has not provided notice that it intends to investigate the violations,
4 Plaintiff has exhausted the administrative requirements for bringing a claim under the PAGA with
5 respect to these violations.

6 **REQUEST FOR A JURY TRIAL**

7 135. Plaintiff and other Class Members hereby demand a jury trial on all triable causes of
8 action.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff and other Class Members pray for the following relief and
11 judgment:

- 12 a. For an order that the action be certified as a class action;
13 b. For an order appointing Plaintiff as representative of the classes;
14 c. For appointment of Macias Rodriguez Adams LLP as class counsel for all
15 purposes;
16 d. An award for compensatory damages including, but not limited to, lost and
17 unpaid minimum, overtime, double time wages, unreimbursed necessary expenditures and/or losses
18 incurred in direct consequence of Plaintiff's and other Class Members' discharge of their duties;
19 e. An award for meal period premiums for non-compliant meal periods, pursuant
20 to California Labor Code section 226.7, subdivision (c), and IWC Wage Order No. 16 section 10,
21 subdivision (F);
22 f. An award for rest period premiums for non-compliant rest periods, pursuant to
23 California Labor Code section 226.7, subdivision (c), and IWC Wage Order No. 16 section 11,
24 subdivision (D);
25 g. An award for statutory penalties provided by law, including, but not limited to,
26 those in California Labor Code sections 203 and 226, subdivision (e);
27 h. An award for liquidated damages pursuant to California Labor Code section
28 1194.2, in an amount equal to the unpaid minimum wages;

- 1 i. Restitution of all amounts owed, pursuant to California Business & Professions
2 Code section 17200 et seq, including minimum, overtime, and double time wages and interest thereon.
- 3 j. Disgorgement of profits and all other appropriate equitable relief authorized by
4 California Business & Professions Code section 17203;
- 5 k. Civil penalties authorized by the Private Attorneys General Act of 2004 in
6 Labor Code section 2699, subdivisions (a) and (f);
- 7 l. Attorneys' fees and litigation expenses pursuant to Labor Code sections 218.5,
8 226, subdivision (h), 1194, subdivision (a), 2802, 2699, subdivision (g)(1), California Code of Civil
9 Procedure section 1021.5, and such other provisions as may be applicable;
- 10 m. Pre-judgment and post-judgment interest on all sums awarded;
- 11 n. Costs of suit; and
- 12 i. For such other and further relief as is equitable, just, and proper.

13 Dated: June 3, 2021

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15 

16 _____
17 JOSE MACIAS, JR.
18 HECTOR RODRIGUEZ
19 TRAVIS M. ADAMS

20 **MACIAS RODRIGUEZ ADAMS LLP**

21 Attorneys for Plaintiff
22 JOSE SOTO RODRIGUEZ
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EXHIBIT 1
Notice of PAGA Violations to LWDA



Macías Rodríguez LLP
— ATTORNEYS AT LAW —

Macías Rodríguez LLP
1550 The Alameda, Suite 332
San Jose, CA 95126

Travis M. Adams
408.455.7334 direct
408.455.1243 main
travis@maciasrodriguez.com

October 2, 2020

VIA ELECTRONIC SUBMISSION

PAGAfiling@dir.ca.gov

State of California Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA CERTIFIED MAIL

Wedge Roofing, Inc.
ATTN: Ralph Wedge
5 Casa Grande Road
Petaluma, CA 94954

**Re: Notice of Violations Pursuant to the Labor Code Private Attorneys General Act
California Labor Code Section 2699.3**

Dear Administrator:

This office represents Jose Soto Rodriguez ("Claimant") in connection with his claims under the California Labor Code.

As required by California Labor Code section 2699.3, Claimant by way of this letter provides notice of his intent to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, pursuant to the Labor Code Private Attorneys General Act, codified in California Labor Code sections 2698 et seq.

Claimant was an employee of Wedge Roofing, Inc. ("Wedge Roofing"), a roofing contractor located at: 5 Casa Grande Road, Petaluma, California 94954. Wedge Roofing employed Claimant as a non-exempt, hourly Apprentice Roofer from August 22, 2017, to March 23, 2020.

During his employment, Claimant did not enjoy all the protections guaranteed to non-exempt employees by the California Labor Code and the applicable Wage Order of the Industrial Welfare Commission ("IWC").

Pursuant to the Labor Code Private Attorneys General Act, Claimant therefore seeks relief on behalf of himself, the State of California, and other persons who were employed by Wedge Roofing in California as non-exempt, hourly-paid employees and who received at least one wage statement during the relevant statutory time period ("aggrieved employees").

Uniform Payroll and Human Resources Practices

Wedge Roofing is a California corporation located in Petaluma, California. Wedge Roofing is a roofing contractor that serves commercial and residential customers. Wedge Roofing employs roofers like Claimant to fulfill its services.

Upon information and belief, Wedge Roofing has a centralized human resources (HR) department at its principal business in Petaluma, California, which implements uniform, standardized policies and practices that affect all its non-exempt, hourly-paid employees in California, including Claimant and other aggrieved employees.

Upon information and belief, during the relevant time period, Wedge Roofing issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly-paid employees in California, including Claimant and other aggrieved employees.

Upon information and belief, during the relevant time period, Wedge Roofing maintained uniform, standardized payroll practices and procedures, including the same methods and formulas for the calculation of wages, for all non-exempt, hourly-paid employees in California, including Claimant and other aggrieved employees. In addition, Wedge Roofing issued the same uniform and formatted wage statements to all non-exempt, hourly-paid employees in California, including Claimant and other aggrieved employees.

Unpaid Minimum Wages

Violation of California Labor Code Sections 1182.12, 1194, 1197, 1197.1, and 1198

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the fixed minimum wage is unlawful. Compensable work time is defined by the applicable Wage Order as: "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

Wedge Roofing did not pay Claimant and other aggrieved employees minimum wages for all hours worked. Claimant and the other aggrieved employees worked numerous off-the-clock hours without receiving compensation.

Wedge Roofing required Claimant and other aggrieved employees to arrive at the company yard as early as two hours before they departed the company yard to the first job site. During the time between arrival at the company yard and departure from the company yard, Claimant and other aggrieved employees performed numerous preliminary work activities, such as preparing the work truck and gathering the necessary tools for the day. Wedge Roofing neither recorded the times Claimant and other aggrieved employees spent performing these preliminary work activities nor compensated Claimant and other aggrieved employees for performing these preliminary work activities.

After completing these preliminary work activities, Claimant and other aggrieved employees departed the company yard in group work trucks. Except for the driver, none of the passengers

received compensation for travel time incurred from the company yard to the first job site. In addition, except for the driver, none of the passengers received compensation for travel time incurred from the final job site back to the company yard.

When Claimant and other aggrieved employees arrived back at the company yard from the final job site, Claimant and other aggrieved employees performed numerous postliminary work activities for as long as 30 minutes, such as cleaning the work truck and unloading and cleaning the work tools. Wedge Roofing neither recorded the time Claimant and other aggrieved employees spent performing these postliminary work activities nor compensated Claimant and other aggrieved employees for performing these postliminary work activities.

In view of the foregoing, Wedge Roofing failed to pay at least minimum wages to Claimant and other aggrieved employees for all the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order. Claimant and other aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs, per Labor Code sections 558, 1197.1 and/or 2699, subdivisions (f) and (g).

Unpaid Overtime Violation of California Labor Code Sections 510 and 1198

California Labor Code sections 510 and 1198 and the applicable IWC Wage Order require employers to pay employees who work more than eight (8) hours in a workday or more than forty (40) hours in a workweek at the rate of one and a half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours in a day or in excess of forty (40) hours in a workweek.

The applicable IWC Wage Order also provides that employers are required to pay employees, who work more than twelve (12) hours in a workday, overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all compensation for employment paid to, or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

Wedge Roofing failed to pay all overtime compensation owed to Claimant and other aggrieved employees. During the relevant time period, Wedge Roofing did not pay Claimant and other aggrieved employees all overtime compensation for all of the hours they worked in excess of eight (8) hours in a workday and/or in excess of forty (40) hours in a workweek. Wedge Roofing also did not pay all double time compensation for all of the hours Claimant and other aggrieved employees worked in excess of twelve (12) hours in a workday.

Wedge Roofing failed to pay all overtime and double time compensation owed to Claimant and other aggrieved employees for three reasons. First, Wedge Roofing had a policy and practice of paying overtime for hours worked in excess of ten (10) hours per workday, instead of hours worked in excess of eight (8) hours per workday, in violation of California Law. Second, Wedge Roofing had a policy and practice of not paying Claimant and other aggrieved employees for all of the preliminary and postliminary work activities that Claimant and other aggrieved employees

performed off-the-clock. Third, despite being under Wedge Roofing's control, except for the driver, Wedge Roofing failed to pay for travel time that Claimant and other aggrieved employees incurred from the company yard to the first job site and from the final job site back to the company yard.

Consequently, accounting for the fact that Wedge Roofing owes Claimant and other aggrieved employees overtime compensation for hours worked in excess of eight (8) hour in a day and not in excess of 10 hours in a day, Wedge Roofing owes Claimant and other aggrieved employees the following overtime and double time compensation:

- (1) to the extent that the off-the-clock hours worked and the travel time incurred by Claimant and other aggrieved employees resulted in them working in excess of eight (8) hours in a workday or resulted in them working additional hours in excess of eight (8) hours in a workday, Wedge Roofing owes Claimant and other aggrieved employees unpaid overtime compensation;
- (2) to the extent that the off-the-clock hours worked and the travel time incurred by Claimant and other aggrieved employees resulted in them working in excess of twelve (12) hours in a workday, Wedge Roofing owes Claimant and other aggrieved employees unpaid double time compensation; and
- (3) to the extent that the off-the-clock hours worked and the travel time incurred by Claimant and other aggrieved employees resulted in them working in excess of forty (40) hours in a workweek or additional hours in excess of a forty (40) hours in a workweek, Wedge Roofing owes Claimant and aggrieved employees unpaid overtime compensation.

Wedge Roofing's failure to pay Claimant and other aggrieved employees the proper overtime and double time compensation violates California Labor Code sections 510 and 1198 and the applicable IWC Wage Order. Claimant and other aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs, per California Labor Code sections 558, and/or 2699, subdivisions (f) and (g).

Failure to Provide Meal Periods **Violation of California Labor Code Sections 226.7, 512, Subdivision (a), and 1198**

California Labor Code sections 226.7, 512, subdivision (a), and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each workday that a meal period is not provided. Pursuant to Labor Code sections 226.7 and 512, subdivision (a), and the applicable IWC Wage Order, an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

Under California law, first meal periods must start before the end of the fifth hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1041-1042.). Labor Code sections 226.7

and 512, subdivision (a), and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate of pay, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee, but only if the employee did not waive the first meal period.

Wedge Roofing failed to provide Claimant and other aggrieved employees with compliant meal periods and failed to provide Claimant and other aggrieved employees with meal period premium pay when Claimant and other aggrieved employees did not receive compliant meal periods.

On most workdays, Claimant and other aggrieved employees did not receive their first meal period before the end of the fifth hour of work. The supervisors determined when Claimant and other aggrieved employees received meal periods and most of the time the supervisors did not permit Claimant and other aggrieved employees to take their first meal period before the end of the fifth hour of work. In addition, Claimant and other aggrieved employees did not complete their own time sheets and most of the time the supervisors did not accurately record the exact start and stop times of meal periods.

Wedge Roofing also did not provide second meal periods on days when Claimant and other aggrieved employees worked in excess of ten (10) hours in a day.

Wedge Roofing knew or should have known that, as result of its failure to track and record all off-the-clock hours worked, its failure to account for travel time as hours worked, its inaccurate recording of the beginning and ending of meal periods, and the pressure imposed on workers to complete jobs quickly, that they did not provide Claimant and other aggrieved employees with timely first meal periods and did not provide Claimant and other aggrieved employees with second meal periods on days when Claimant and other aggrieved employees worked in excess of ten (10) hours in day. Wedge Roofing also knew or should have known that they did not pay Claimant and other aggrieved employees meal period premium pay for late first meal periods and for missed second meal periods.

In view of the foregoing, Wedge Roofing failed to provide all meal periods in violation of California Labor Code sections 226.7, 512, and 1198 and the applicable IWC Wage Order. Claimant and other aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs, per Labor Code sections 558 and/or 2699, subdivisions (f) and (g).

Failure to Provide Rest Periods

Violation of California Labor Code Sections 226.7 and 1198

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable IWC Wage Order. The applicable IWC Wage Order provides that "(e)very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to provide rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend her break time, and relieve her employees of all duties, including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269-270.)

Wedge Roofing had a policy and practice of not providing compliant rest periods to Claimant and other aggrieved employees. Instead of providing the first rest period in the middle of the work period, Wedge Roofing typically combined the first rest period with the first meal period without any practical business justification. In addition, based on the nature of the work schedule and pressure to complete jobs quickly, Wedge Roofing did not provide Claimant and other aggrieved employees with their second rest periods.

Wedge Roofing did not pay Claimant and other aggrieved employees rest period premium pay on days that they combined the first rest period with the first meal period without any business justification and on days when they failed to provide Claimant and other aggrieved employees with second rest periods as required by California law.

In view of the foregoing, Wedge Roofing failed to provide all rest periods in violation of California Labor Code sections 226.7, 512, and 1198 and the applicable IWC Wage Order. Claimant and other aggrieved employees can therefore recover civil penalties, attorneys’ fees, and costs, per Labor Code sections 558 and 2699, subdivisions (f) through (g).

Non-Compliant Wage Statements Violation of California Labor Code Sections 226, Subdivision (a)

California Labor Code section 226, subdivision (a), requires employers to make, keep, and provide true, accurate, and complete employment records.

Labor Code section 226, subdivision (e), provides that if an employer fails to provide an employee with properly itemized wages statements as set forth in section 226, subdivision (a), then the employee can recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000.

Furthermore, Labor Code section 226.3 provides that any employer who violates section 226, subdivision (a), shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records per section 226, subdivision (a).

Because Wedge Roofing failed to properly compensate Claimant and other aggrieved employees, Wedge Roofing derivatively failed to provide Claimant and other aggrieved employees with accurate itemized wage statements, resulting in violations of California Labor sections 226, subdivisions (a)(1), (2), (5) and (9). Wedge Roofing also failed to provide Claimant and other aggrieved employees with accurate, itemized wage statements in violation of California Labor

Code section 226, subdivision (a)(8), because Wedge Roofing had a policy and practice of failing to list the name of Claimant's and other aggrieved employees' legal employer.

In view of the foregoing, Claimant and other aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs per Labor Code sections 226.3 and 2699, subdivision (a).

**Failure to Maintain Accurate Payroll Records
Violation California Labor Code Sections 1174, Subdivision(d), and 1198**

California Labor Code section 1174, subdivision (d), provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments . . ."

Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174, subdivision (d).

Because Wedge Roofing failed to record all the off-the-clock hours worked and all the travel time incurred by Claimant and other aggrieved employees during the relevant time period, Wedge Roofing derivatively failed to maintain accurate payroll records showing all of the daily hours worked by and all the wages paid to Claimant and other aggrieved employees in violation of California Labor Code 1174, subdivision (d).

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 also provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period and each split shift interval.

Because Wedge Roofing failed to record all the off-the-clock hours worked and all the travel time incurred by Claimant and other aggrieved employees during the relevant time period, Wedge Roofing likewise derivatively violated California Labor Code section 1198 for failing to keep accurate records of work period start and stop times for Claimant and other aggrieved employees.

Because Wedge Roofing failed to provide the accurate number of total hours worked on wage statements, Claimant and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Claimants and other aggrieved employees had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Claimant and other aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs, per Labor Code sections 1174.5 and 2699, subdivisions (a), (f) and (g).

Failure to Timely Pay Wages During Employment Violation of California Labor Code Section 204

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

California Labor Code section 210, subdivision (a)(1), provides that an employer that violates California Labor Code section 204 is liable for a civil penalty of one hundred dollars (\$100) for each failure to pay each employee for an initial violation.

For a subsequent or a willful or intentional violation of California Labor Code section 204, California Labor Code section 210, subdivision (a)(2), provides that an employer is liable for a civil penalty of two hundred dollars (\$200), plus 25 percent of the amount unlawfully withheld.

As discussed above, during the relevant time period, Wedge Roofing failed to pay Claimant and other aggrieved employees all compensation owed to them, including, but not limited to, minimum wages, overtime wages, double time wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Claimant and aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs, per Labor Code sections 210 and 2699, subdivision (a).

Failure to Timely Pay Final Wages Upon Termination Violation of California Labor Code 201, 202, and 203

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

California Labor Code section 256 provides: "The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section 203."

As discussed above, during the relevant time period, Wedge Roofing failed to pay Claimant and other aggrieved employees all compensation due to them. Accordingly, Wedge Roofing willfully failed to pay Claimant and other aggrieved employees who are no longer employed by Wedge Roofing all their earned wages, including, but not limited to, minimum wages, overtime wage, double time wage, and meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of leaving Wedge Roofing's employ in violation of California Labor Code sections 201, 202, and 203.

Claimant and other aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs, per Labor Code sections 256 and 2699, subdivision (a).

Unreimbursed Business Expenses Violation of California Labor Code Section 2802

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off the cost of doing business and operating expenses on to its employees. (*Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal. App. 4th 1137, 1144.) The applicable IWC Wage Order provides that: "[w]hen 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 in conformity with Labor Code Section 2802."

During the relevant time period, Wedge Roofing failed to provide Claimant and other aggrieved employees with adequate tools, including but not limited to: air compressor; framer's bag; carpenter's square; paint brushes; hammer; tape measure; and chalk line. Claimant and other aggrieved employees instead had to pay out-of-pocket for these necessary expenses.

Wedge Roofing could have provided Claimant and other aggrieved employees with the actual tools for use on the job. Wedge Roofing also could have reimbursed employees for out-of-pocket expenses in purchasing tools for use on the job. Instead, Wedge Roofing passed these operating costs off onto Claimant and other aggrieved employees in violation of California law. As such, Wedge Roofing had and continues to have a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred.

Wedge Roofing's policy and/or practice of passing its operating costs on to Claimant and other aggrieved employees by requiring that they purchase their own tools for use on the job violates California Labor Code section 2802. Claimant and other aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs, per Labor Code section 2699, subdivisions (f) and (g).

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Unlawful Deduction of Wages Violation of California Labor Code Sections 221 and 224

California Labor Code section 221 prohibits employers to collect or receive employees' wages previously paid. California Labor Code section 224 authorizes an employer to lawfully withhold amounts from an employee's wages only when (1) required or empowered to do so by state or federal law; (2) a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage set by an agreement or statute; or (3) when a deduction to cover health, welfare, or pension plan contributions is expressly authorized by a wage agreement or a collective bargaining agreement.

During the relevant time period, Wedge Roofing made unlawful deductions from Claimant's wages by requiring him to pay for the cost of a framer's bag out of his wages. The framer's bag cost \$264.71. The framer's bag was a necessary tool for use of the job. If Claimant purchased this tool out-of-pocket, Wedge Roofing would have been required to reimburse Claimant for the cost of this necessary business expense under California Labor Code section 2802 and the applicable IWC Wage Order.

By requiring Claimant to pay for the cost of this tool out of his own wages, Wedge Roofing unlawfully deducted from Claimant's wages in violation of California Labor Code section 221 and 224 and the applicable IWC Wage Order.

Claimant and other aggrieved employees can therefore recover penalties, attorneys' fees, and costs, per Labor Code section 2699, subdivisions (f) and (g).

Failure to Provide Notice of Material Terms of Employment Violation of California Labor Code Section 2810.5, Subdivision (a)

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claimed as part of the minimum wage, including meal or lodging allowances.

Effective January 1, 2015, an employer's written notice per section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

On information and belief, Wedge failed to provide Claimant and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5, subdivision (a)(1)(A) through (C).

Wedge Roofing's failure to provide Claimant and other aggrieved employees with written notice of basic information about their employment with Wedge Roofing violates California Labor Code section 2810.5. Claimant and other aggrieved employees can therefore recover civil penalties, attorneys' fees, and costs, per Labor Code section 2699, subdivisions (f) and (g).

Violation of California Labor Code Section 558, Subdivision (a)

California Labor Code section 558, subdivision (a), provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Labor Code section 558, subdivision (c), provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law."

At all relevant times Wedge Roofing was an employer or person acting on behalf of an employer(s) who violated Claimant's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Claimant seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, per the Labor Code Private Attorneys General Act, and in particular California Labor Code sections 2699, subdivision (a), 2699.3, subdivision (a), and 2699.3, subdivision (c), 2699.5, and 558, Claimant, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against Wedge Roofing for violations of California Labor Code sections 201, 202, 203, 204, 226, subdivision (a), 226.7, 510, 512, subdivision (a), 1174, subdivision (d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Claimant seek all applicable civil penalties related to these violations of the California Labor Code per the Labor Code Private Attorneys General Act.

Thank you for your attention to this matter. If you have any questions, please contact me at the address below:

Macias Rodriguez LLP
1550 The Alameda, Suite 332
San Jose, CA 95126

LWDA
October 2, 2020
Page 12 of 12

Sincerely,

A handwritten signature in blue ink, reading "Travis Adams". The signature is written in a cursive, flowing style.

Travis M. Adams
Partner