

BRADLEY/GROMBACHER, LLP

Marcus J. Bradley, Esq. (SBN 174156)
Kiley L. Grombacher, Esq. (SBN 245960)
Lirit A. King, Esq. (SBN 252521)
31365 Oak Crest Drive, Suite 240
Westlake Village, California 91361
Telephone: (805) 270-7100
Facsimile: (805) 270-7589
mbradley@bradleygrombacher.com
kgrombacher@bradleygrombacher.com
lking@bradleygrombacher.com

LAW OFFICES OF SAHAG MAJARIAN II

Sahag Majarian II, Esq. (SBN 146621)
18250 Ventura Boulevard
Tarzana, California 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892
Email: sahagii@aol.com

Attorneys for Plaintiff, PABLO SANCHEZ, individually
and on behalf of other individuals similarly situated

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

PABLO SANCHEZ individually and on behalf of
other individuals similarly situated,

Plaintiff,

v.

HI TECH TILE & MARBLE, INC., a California
Corporation; and DOES 1 through 100, inclusive

Defendants.

CASE NO.

CLASS ACTION COMPLAINT FOR:

- 1. Failure to Pay All Wages;**
- 2. Non-Compliant Meal Breaks in Violation of California Labor Code §§ 200, 226.7, 512;**
- 3. Non-Compliant Rest Breaks in Violation of California Labor Code §§ 200, 226.7, 512;**
- 4. Failure to Furnish an Accurate Itemized Wage Statement upon Payment of Wages in Violation of California Labor Code §226;**
- 5. Failure to Pay All Wages Owed at Termination in Violation of California Labor Code §203;**
- 6. Failure to Reimburse Expenses in Violation of California Labor Code § 2802;**
- 7. Violations of California Business & Professions Code §§ 17200, et seq.**

DEMAND FOR JURY TRIAL

1 Plaintiff PABLO SANCHEZ (hereinafter referred to as “Plaintiff”), hereby submits his Class
2 Action Complaint against HI TECH TILE & MARBLE, INC., a California Corporation; and Does 1-100
3 (hereinafter referred to as “Defendants”) on behalf of himself and the class of all other similarly situated
4 current and former employees of Defendants as follows:

5 **INTRODUCTORY FACTUAL ALLEGATIONS**

6 1. This class action is within the Court's jurisdiction under California *Labor Code* and
7 California *Business and Professions Code* § 17200, et seq., (Unfair Practices Act).

8 2. This complaint challenges systemic illegal employment practices resulting in violations of
9 the California *Labor Code*, and California *Business and Professions Code* against employees of
10 Defendants.

11 3. Plaintiff seeks relief on behalf of himself and the members of the Plaintiff Class as a result
12 of employment policies, practices and procedures more specifically described below, which violate the
13 California *Labor Code*, and the orders and standards promulgated by the California Department of
14 Industrial Relations, Industrial Welfare Commission, and Division of Labor Standards, and which have
15 resulted in the failure of Defendants to pay Plaintiff and members of the Plaintiff Class all wages due to
16 them. Said employment policies, practices and procedures are generally described as follows:

- 17 a. Failure to compensate Plaintiff and members of the Plaintiff Class for all hours worked;
18 b. Failure to provide compliant meal breaks to Plaintiff and members of the Plaintiff Class;
19 c. Failure to provide compliant rest breaks to Plaintiff and members of the Plaintiff Class;
20 d. Failure to provide accurate itemized wage statements;
21 e. Failure to timely pay all wages due to Plaintiff and members of the Plaintiff Class upon
22 termination or within 72 hours of resignation; and
23 f. Failure to reimburse Plaintiff and members of the Plaintiff Class for all expenses.

24 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants have engaged
25 in, among other things a system of willful violations of the California *Labor Code*, California *Business*
26 *and Professions Code*, and applicable IWC wage orders by creating and maintaining policies, practices
27 and customs that knowingly deny employees the above stated rights and benefits.

28 5. The policies, practices and customs of Defendants described above and below have

resulted in unjust enrichment of Defendants and an unfair business advantage over businesses that routinely adhere to the structures of the California *Labor Code*, and California *Business and Professions Code*.

6. This matter is brought as a class action pursuant to California *Code of Civil Procedure* § 382, on behalf of Plaintiff and the Plaintiff Class, which is defined more specifically below, but which is comprised, generally, of all former and current employees of HI TECH TILE & MARBLE, INC., a California Corporation, who hold or held the job positions which Defendants classified as “non-exempt” at any of Defendants’ facilities in California and throughout the United States.

7. This Complaint alleges systematic violations of the California *Labor Code* (hereinafter, “*Labor Code*,”) and the California *Business & Professions Code* and is brought by Plaintiff on his own behalf and on behalf of the members of the Plaintiff Class.

8. The California Plaintiff “Class Period” is defined as the period from four years prior to the filing of this action through and including the date judgment is rendered in this matter. Plaintiff herein reserves the right to amend this Complaint to reflect a different Class Period as discovery in this matter proceeds.

9. The actions of Defendants are in violation of the California *Labor Code* as well as the wage orders of the Industrial Wage Commission of the State of California and, as a result, are unlawful and unfair acts, thus constituting a violation of California *Business & Professions Code* § 17200, et seq. (Unfair Practices Act).

10. The policies, practices and customs of Defendants described above and herein have resulted in unjust enrichment of Defendants and an unfair business advantage over businesses that routinely adhere to the requirements of the California *Labor Code* and of the *Business & Professions Code*.

JURISDICTION AND VENUE

11. On information and belief, Defendants are either citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

1 12. Venue is proper in Los Angeles County because the acts which give rise to this litigation
2 occurred in this county and Defendants do business in Los Angeles County.

3 13. Plaintiff PABLO SANCHEZ (“Plaintiff”) is a resident of San Bernardino County, in the
4 State of California. Plaintiff was employed by Defendants, HI TECH TILE & MARBLE, INC., a
5 California Corporation, from approximately 2017 through August 21, 2020. Plaintiff worked as an
6 ‘installer’ in Canoga Park.

7 14. HI TECH TILE & MARBLE, INC., a California Corporation doing business in California.

8 15. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
9 mentioned Defendants and DOES 1 through 100, are and were corporations, business entities, individuals,
10 and partnerships, licensed to do business and actually doing business in the State of California.

11 16. Plaintiff does not know the true names or capacities, whether individual, partner or
12 corporate, of the Defendants sued herein as DOES 1 through 100, inclusive, and for that reason, said
13 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint
14 when the true names and capacities are known. Plaintiff is informed and believes, and based thereon
15 alleges, that each of said fictitious Defendants were responsible in some way for the matters alleged herein
16 and proximately caused Plaintiff and members of the general public and class to be subject to the illegal
17 employment practices, wrongs and injuries complained of herein.

18 17. At all times herein mentioned, Defendants participated in the doing of the acts hereinafter
19 alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them,
20 were the agents, servants and employees of each of the other Defendants, as well as the agents of all
21 Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and
22 employment.

23 18. Plaintiff is informed and believes, and based thereon alleges, that at all times material
24 hereto, each of the Defendants named herein were the agents, employees, alter egos and/or joint venturer
25 of, or working in concert with each of the other co-Defendants and were acting within the course and scope
26 of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and
27 omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and
28 ratified said acts, conduct, and omissions of the acting Defendants.

19. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

20. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged. At all times herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

21. The members of the Plaintiff Class, including the representative Plaintiff named herein, have been employed during the Class Period in California. The practices and policies which are complained of by way of this Complaint are enforced throughout the State of California and the United States.

FACTUAL ALLEGATIONS

22. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

23. Defendants have engaged in, and continue to engage in, unfair business practices in California by practicing, employing and utilizing the employment practices and policies outlined above.

24. Defendants' utilization of such unfair business practices deprives Plaintiff and other aggrieved employees of the general minimum working standards and entitlements due to them under California law and the Industrial Welfare Commission wage orders as described herein.

25. Plaintiff and all other aggrieved employees were and are classified by Defendants as non-exempt employees, pursuant to the provisions of the California *Labor Code*, and the orders and standards promulgated by the California Department of Industrial Relations, Industrial Welfare Commission, and Division of Labor Standards. As non-exempt employees, Plaintiff and all other aggrieved employees are entitled to certain benefits, including mandated meal and rest breaks. In addition, said statutory provisions, wage orders, regulations and standards obligate the employer to maintain accurate records of the hours worked by employees.

1 26. As a direct result of the wage and hour violations herein alleged, Plaintiff and members of
2 the Plaintiff Class have suffered, and continue to suffer substantial losses related to the use and enjoyment
3 of wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants
4 to fully perform its obligations under state law, all to Plaintiff's respective damage in amounts according
5 to proof at the time of trial.

6 ***Defendants' Failure to Pay for All Hours Worked***

7 27. Defendants did not compensate their hourly non-exempt employees for all the minutes that
8 they worked as described above, including but not limited to the time that the employees were subject to
9 the control and direction of Defendants; and/or the time that the employees were suffered or permitted to
10 work.

11 28. Defendants, at all times relevant herein, failed to compensate for all actual hours worked
12 by non-exempt employees. As a result, Defendants have failed and refused to compensate Plaintiff and
13 members of the Plaintiff Class all wages due to them for actual hours worked.

14 ***Time Spent "Off-the-Clock"***

15 29. Pursuant to a uniform policy originated by Defendants, Plaintiff and members of the
16 Plaintiff Class required to work "off-the-clock."

17 30. Thus, at the discretion and control of the Defendants and solely for their benefit, Plaintiff
18 and other members of the Plaintiff Class were not compensated for all time worked. This work, done solely
19 for the employer's benefit, is time which employees should be, but are not, compensated for both straight
20 hours and overtime hours worked in excess of 40 in a week or, in California, in excess of 8 in a day.

21 ***Defendants' Failure to Provide Compliant Meal Breaks***

22 31. Plaintiff alleges that meal breaks were frequently taken late, and he and members of the
23 Plaintiff Class were not provided with second meal periods.

24 32. Plaintiff alleges that throughout the Relevant Time Period, Defendants regularly:

- 25 a. Failed to provide Plaintiff and the members of the Plaintiff Class with a first meal
26 period of not less than thirty (30) minutes during which they are relieved of all duty
27 before working more than five (5) hours;

- b. Failed to provide Plaintiff and the members of the Plaintiff Class with a second meal period of not less than thirty (30) minutes during which they are relieved of all duty before working more than ten (10) hours per day; and
- c. Failed to pay Plaintiff and the members of the Plaintiff Class one hour of pay at their regular rate of compensation for each workday that a meal period was not provided; and
- d. Failed to accurately record all meal periods.

Defendants' Failure to Provide Compliant Rest Breaks

33. At all times, relevant hereto, California *Labor Code* § 226.7 and IWC Wage Order, section 12, required employers to authorize, permit, and provide a ten (10) minute paid rest for each four (4) hours of work, during which employees are relieved of all duty.

34. At all times, relevant hereto, California *Labor Code* § 226.7(b) and IWC Wage Order, section 12 required employers to pay one hour of additional pay at the regular rate of compensation for each employee and each workday that a proper rest period is not provided.

35. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to effectively communicate California rest period requirements to Plaintiff and the members of the plaintiff class. Plaintiff is further informed and believes and based thereon alleges that throughout the relevant time period Defendants failed to provide rest periods.

36. Plaintiff alleges that he and members of the Plaintiff Class were never provided with rest breaks, and as a result, Plaintiff and Class members have been deprived of their entitled rest periods.

37. Throughout the Relevant Time Period, Plaintiff and the members of the Plaintiff Class were routinely denied the rest breaks they were entitled to under California law.

38. Specifically, throughout the Relevant Time Period, Defendants regularly:

- e. Failed to provide paid rest periods of ten (10) minutes during which Plaintiff and the members of the Plaintiff Class were relieved of all duty for each four (4) hours of work and able to take rest periods within the middle of the shift; and
- f. Failed to pay Plaintiff and the members of the Plaintiff Class one (1) hour of pay at

1 their regular rate of compensation for each workday that a rest period was not
2 permitted.

3 ***Defendants' Failure to Pay All Wages Due at Termination of Employment***

4 39. At all times, relevant hereto, California *Labor Code* § 201 required an employer that
5 discharges an employee to pay compensation due and owing to said employee immediately upon
6 discharge. California *Labor Code* § 202 requires an employer to pay an employee who quits any
7 compensation due and owing to said employee within seventy-two (72) hours of an employee's
8 resignation. California *Labor Code* § 203 provides that if an employer willfully fails to pay compensation
9 promptly upon discharge or resignation, as required under Sections 201 and 202, then the employer is
10 liable for waiting time penalties in the form of continued compensation for up to thirty (30) work days.

11 40. Defendants willfully and knowingly failed to pay Plaintiff and other members of the
12 Plaintiff Class, upon termination of employment, all accrued compensation.

13 41. Specifically, Plaintiff and members of the Plaintiff Class were entitled to premiums for
14 improper meal and rest breaks, and were and are entitled to all pay for time spent "off-the-clock."

15 ***Defendants' Failure to Provide Accurate Wage Statements***

16 42. Defendants failed to comply with California *Labor Code* Section 226(a) because the hours
17 worked, and meal and rest breaks were incorrect.

18 43. Further, wage statements are missing the name of the employer, which is required under
19 Section 226.

20 ***Defendants' Failure to Reimburse Expenses***

21 44. Pursuant to California *Labor Code* § 2802(a) an employer shall indemnify his or her
22 employee for all necessary expenditures or losses incurred by the employee in direct consequence of the
23 discharge of his or her duties, or of his or her obedience to the directions of the employer, even though
24 unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

25 45. Defendants have intentionally and willfully failed to reimburse and/or pay Plaintiff and the
26 members of the Plaintiff Class for business-related expenses, including, but not limited to, mileage
27 expenses.

28 ///

1 ***Facts Regarding Willfulness***

2 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants are and were
3 advised by skilled lawyers, other professionals, employees with human resources background and advisors
4 with knowledge of the requirements of California wage and hour laws.

5 47. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times,
6 Defendants had a consistent policy or practice of failing to compensate the Plaintiff Class members,
7 including Plaintiff.

8 48. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times,
9 Defendants knew or should have known, that the Plaintiff Class members, including Plaintiff, were entitled
10 to receive duty-free meal periods within the first five (5) hours of any shift of six (6) or more hours worked,
11 and that any failure to do so requires Defendants to pay Plaintiff and the members of the plaintiff class one
12 (1) hour of wages per day for untimely meal periods.

13 49. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times,
14 Defendants knew or should have known, that the Plaintiff Class members, including Plaintiff, were and
15 are entitled to one (1) ten (10) minute rest break for each shift of four (4) hours or more, and that any failure
16 to allow said breaks requires Defendants to pay the Plaintiff Class members, including Plaintiff, one (1)
17 hour of wages per day for missed or on-duty rest breaks.

18 ***Unfair Business Practices***

19 50. Defendants have engaged in, and continue to engage in, unfair business practices in
20 California by practicing, employing and utilizing the employment practices and policies outlined above.

21 51. Defendants' utilization of such unfair business practices constitutes unfair competition and
22 provides an unfair advantage over Defendants' competitors.

23 52. Defendants' utilization of such unfair business practices deprives Plaintiff and members of
24 the Plaintiff Class of the general minimum working standards and entitlements due them under California
25 law and the Industrial Welfare Commission wage orders as described herein.

26 53. As a direct result of the wage and hour violations herein alleged, Plaintiff and members of
27 the Plaintiff Class have suffered, and continue to suffer substantial losses related to the use and enjoyment
28 of wages, lost interest on such wages, and expenses and attorney's fees in seeking to compel Defendants

1 to fully perform their obligations under state law, all to Plaintiff's respective damage in amounts according
2 to proof at the time of trial.

3 ***Plaintiff's Exhaustion of Administrative Remedies***

4 54. Plaintiff is currently complying with the procedures for bringing suit specified in California
5 *Labor Code* § 2699.3.

6 55. By letter dated November 30, 2020 required notice was sent to Labor and Workforce
7 Development Agency ("LWDA") and Defendants of the specific provisions of the California *Labor Code*
8 alleged to have been violated, including the facts and theories to support the alleged violations.

9 56. This Complaint will be amended when more than sixty (60) days have passed since the
10 date the notice was mailed to Defendants and the LWDA, if the LWDA chooses not to investigate the
11 allegations herein.

12 **CLASS ACTION ALLEGATIONS**

13 57. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

14 58. Plaintiff brings this action on behalf of himself and all others similarly situated as a class
15 action, pursuant to California *Code of Civil Procedure* §382. The classes which Plaintiff seeks to represent
16 are composed of, and defined as follows:

17 **Plaintiff Class**

18 All persons who have been, or currently are, employed by Defendants and
19 who held, or hold, job positions which Defendants have classified as "non-
20 exempt" employees in the State of California.

21 **Terminated Sub Class**

22 All members of the Plaintiff Class whose employment ended during the
23 Class Period.

24 (collectively "Plaintiff Class" or "Class Members")

25
26 59. Plaintiff is informed and believes, and on that basis alleges, that during the class period
27 thousands of class members have been employed by Defendants as non-exempt employees in the State of
28 California. Because so many persons have been employed by Defendants in this capacity, the members

of the Plaintiff Class are so numerous that joinder of all members is impossible and/or impracticable.

60. Common questions of law, in fact, exist as to all members of the Plaintiff Class and predominate over any questions affecting solely individual members of the Plaintiff Class. Among the questions of law and fact, that are relevant to the adjudication of class members claims are as follows:

- a. Whether Plaintiff and Class Members are subject to and entitled to the benefits of California wage and hour statutes;
- b. Whether Defendants maintained accurate records of the hours worked by employees;
- c. Whether Defendants had a standard policy of not providing proper meal and rest breaks to Plaintiff and members of the Plaintiff Class;
- d. Whether Defendants unlawfully and/or willfully failed to provide Plaintiff and members of the Plaintiff Class with true and proper wage statements upon payment of wages, in violation of California *Labor Code* §226;
- e. Whether Defendants unlawfully and/or willfully failed to compensate employees for all hours worked;
- f. Whether Defendants unlawfully/or willingly failed to timely pay Plaintiff and the Terminated Sub Class upon termination;
- g. Whether Plaintiff and members of the Plaintiff Class sustained damages, and if so, the proper measure of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief;
- h. Whether Defendants failed to reimburse Plaintiff and members of the Plaintiff Class for business-related expenses; and
- i. Whether Defendants' conduct as alleged herein violates the Unfair Business Practices Act of California, *Bus. & Prof. Code* § 17200, *et seq.*

61. The claims of the named Plaintiff are typical of the claims of the members of the Plaintiff Class. Plaintiff and the members of the Plaintiff Class sustained losses, injuries and damages arising from Defendant's common policies, practices, procedures, protocols, routines, and rules which were applied to other class members as well as Plaintiff. Plaintiff seeks recovery for the same type of losses, injuries, and damages as were suffered by other members of the proposed class.

1 62. Plaintiff is an adequate representative of the proposed classes because he is a member of
2 the class, and his interests do not conflict with the interests of the members he seeks to represent. Plaintiff
3 has retained competent counsel, experienced in the prosecution of complex class actions, and together
4 Plaintiff and his counsel intends to prosecute this action vigorously for the benefit of the classes. The
5 interests of the Class Members will fairly and adequately be protected by Plaintiff and his attorneys.

6 63. A class action is superior to other available methods for the fair and efficient adjudication
7 of this litigation since individual litigation of the claims of all Class Members is impracticable. It would
8 be unduly burdensome to the courts if these matters were to proceed on an individual basis, because this
9 would potentially result in hundreds of individuals, repetitive lawsuits. Further, individual litigation
10 presents the potential for inconsistent or contradictory judgments, and the prospect of a “race to the
11 courthouse,” and an inequitable allocation of recovery among those with equally meritorious claims. By
12 contrast, the class action device presents far fewer management difficulties, and provides the benefit of a
13 single adjudication, economics of scale, and comprehensive supervision by a single court.

14 64. The various claims asserted in this action are additionally or alternatively certifiable under
15 the provisions of the California *Code of Civil Procedure* § 382 because:

- 16 a. The prosecution of separate actions by hundreds of individual class members
17 would create a risk of varying adjudications with respect to individual class
18 members, thus establishing incompatible standards of conduct for Defendants, and
19 b. The prosecution of separate actions by individual class members would also create
20 the risk of adjudications with respect to them that, as a practical matter, would be
21 dispositive of the interest of the other class members who are not a party to such
22 adjudications and would substantially impair or impede the ability of such non-
23 party class members to protect their interests.

24 65. Plaintiff hereby incorporates each and every allegation contained above and realleges said
25 allegations as if fully set forth herein.

26 ///

27 ///

28 ///

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY FOR ALL HOURS WORKED**

3 **(By Plaintiff and the Members of the Plaintiff Class Against Defendants)**

4 66. Plaintiff incorporates herein by reference the allegations set forth above.

5 67. At all times relevant herein, which comprise the time period not less than four (4) years
6 preceding the filing of this action, Defendants were required to compensate their hourly employees for all
7 hours worked upon reporting for work at the appointed time stated by the employer, pursuant to the
8 Industrial Welfare Commission Orders and California *Labor Code* §§ 200, 226, 1197, and 1198.

9 68. For at least the four (4) years preceding the filing of this action, Defendants failed to
10 compensate employees for all hours worked. Defendants implemented policies that actively prevented
11 employees from being compensated for all time worked by subjecting employees to work “off-the-clock.”

12 69. Under the above-mentioned wage order and state regulations, Plaintiff and the Plaintiff
13 Class are entitled to recover compensation for all hours worked, but not paid, for the four (4) years
14 preceding the filing of this action, in addition to reasonable attorney's fees and costs of suit in accordance
15 with California *Labor Code* § 218.5, and penalties pursuant to California *Labor Code* §203 and 206.

16 70. Defendants did not compensate their hourly non-exempt employees for all the minutes that
17 they worked as described above, including but not limited to the time that the employees were subject to
18 the control and direction of Defendant; and/or the time that the employees were suffered or permitted to
19 work.

20 71. Defendants have knowingly and willfully refused to perform their obligations to
21 compensate Plaintiff and the Plaintiff Class for all wages earned and all hours worked, in violation of state
22 law. As a direct result, Plaintiff and the Plaintiff Class have suffered, and continue to suffer, substantial
23 losses related to the use and enjoyment of such wages, lost interest on such wages, and expenses and
24 attorney's fees in seeking to compel Defendants to fully perform their obligation under state law, in
25 accordance with Plaintiff's and the Plaintiff Class' respective damage amounts according to proof at time
26 of trial.

27 72. Defendants committed such actions alleged knowingly and willfully, with the wrongful
28 and deliberate intention of injuring Plaintiff and the Plaintiff Class, from improper motives amounting to

malice, and in conscious disregard of Plaintiff's and the Plaintiff Class' rights.

73. Plaintiff and the Plaintiff Class are thus entitled to recover nominal, actual, compensatory, punitive, and exemplary damages in amounts according to proof at the time of trial.

74. As a proximate result of the above-mentioned violations. Plaintiff and the Plaintiff Class have been damaged in an amount according to proof at time of trial.

SECOND CAUSE OF ACTION

MISSED MEAL BREAKS IN VIOLATION OF

CAL. LABOR CODE §§ 200, 226.7, 512

(By Plaintiff and the Members of the Plaintiff Class Against Defendants)

75. Plaintiff incorporates herein by reference the allegations set forth above.

76. For at least the four (4) years preceding the filing of this action, Defendants failed to provide meal breaks as required by law.

77. California *Labor Code* § 226.7(a) provides that: "No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission."

78. California *Labor Code* § 512 provides that: "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee."

79. The applicable Wage Order Section 11(D) states "If an employer fails to provide an employee a meal period in the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation each day that the meal period is not provided."

80. Throughout the Class Period, Plaintiff and the members of the Plaintiff Class consistently worked over five (5) hours per work period, and therefore, were entitled to a meal period of not less than thirty (30) minutes prior to exceeding five (5) hours of employment.

81. Defendants failed to pay Plaintiff and the Class members the full statutory penalty for all missed and late meal periods.

1 82. At all times relevant to this Complaint, each Defendant failed, and has continued to fail, to
2 provide Plaintiff and the members of the Plaintiff Class with uninterrupted and timely meal periods.
3 Further, Defendants fail to provide Plaintiff and members of the Plaintiff Class with second meal periods.

4 83. Thus, throughout the Class Period, Defendants regularly:

- 5 a. Failed to provide timely, 30-minute uninterrupted meal periods during which Plaintiff
6 and the members of the Plaintiff Class were relieved of all duty for each five (5) hours
7 of work;
- 8 b. Failed to provide Plaintiff and the members of the Plaintiff Class with a second meal
9 period of not less than thirty (30) minutes during which they are relieved of all duty
10 before working more than ten (10) hours per day;
- 11 c. Failed to pay Plaintiff and the members of the Plaintiff Class one (1) hour of pay at
12 their regular rate of compensation for each workday that a meal period was not
13 permitted.

14 84. As a direct and proximate result of the acts and/or omissions of Defendants, Plaintiff and
15 the members of the Plaintiff Class have been deprived of meal period wages due in amounts to be
16 determined at trial.

17 85. Defendants' conduct described herein violates the Industrial Welfare Commission Order
18 and California *Labor Code* §§ 226, 226.7, 512, and 1198.

19 **THIRD CAUSE OF ACTION**

20 **MISED REST BREAKS IN VIOLATION OF**

21 **CAL. LABOR CODE §§ 200, 226.7, 512**

22 **(By Plaintiff and the Members of the Plaintiff Class Against Defendants)**

23 86. Plaintiff incorporates herein by reference the allegations set forth above

24 87. For at least the four (4) years preceding the filing of this action, Defendants failed to
25 provide proper rest breaks as required by law.

26 88. The applicable Wage Order Section 12(A) states "Every employer shall authorize and
27 permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work
28 period. The authorized 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.”

89. The applicable Wage Order Section 12(B) states “If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each work day that the rest period is not provided.”

90. Plaintiff and the Class Members are entitled to recover additional compensation for all rest periods that were missed, but not paid for, during the four (4) years preceding the filing of this Complaint, plus reasonable attorneys’ fees and costs of suit pursuant to California *Labor Code* § 218.5 and penalties pursuant to California *Labor Code* § 226.7.

91. Defendants failed to provide Plaintiff and Class Members with (10) minutes of rest time prescribed by law.

92. As a proximate result of the aforementioned violations, Plaintiff and the Class Members have been damaged in an amount according to proof at time of trial and have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such monies, lost interest on such monies, and expenses and attorneys’ fees in seeking to compel Defendants to fully perform its obligations under state law. Plaintiff and the Class Members are thus entitled to recover nominal, actual, compensatory and exemplary damages in amount according to proof at time of trial.

FOURTH CAUSE OF ACTION

FAILURE TO FURNISH AN ACCURATE ITEMIZED WAGE STATEMENT IN VIOLATION

OF CAL. LABOR CODE § 226

(By Plaintiff and the Members of the Plaintiff Class Against Defendant)

93. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth herein, the allegations contained above.

94. California *Labor Code* § 226(a) sets forth reporting requirements for employers when they pay wages, as follows: “[e]very employer shall ... at the time of each payment of wages, furnish his or her employees ... an accurate itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the employee.... (5) net wages earned ... (8) the name and address of the legal entity that is the employer... (9) all applicable hourly rates in effect during the pay period and the corresponding number

of hours worked at each hourly rate by the employee.” (Emphasis added.) Section (e) provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4000), and shall be entitled to an award of costs and reasonable attorney’s fees.”

95. Defendants failed to accurately report the gross wages earned and the net wages earned by Plaintiff and the Class Members on their wage statements.

96. Defendants failed to accurately represent the total hours worked by Plaintiff and Class members because all hours worked are not accurately reflected on their wage statements, as a result of failing to compensate Plaintiff and members of the Plaintiff Class for all time worked. Further, Defendants failed to pay meal and rest break premiums.

97. Additionally, Defendants failed to comply with Section 226(a)(8) as wage statements fail to specify the name of the employer.

98. Plaintiff and Class members were damaged by these failures because, among other things, the failures hindered Plaintiff and Class members from determining the amounts of wages actually owed to them.

99. Plaintiff and Class Members request recovery of California *Labor Code* § 226(e) penalties according to proof, as well as interest, attorneys’ fees and costs pursuant to California *Labor Code* § 226(e), in a sum as provided by the Labor Code and/or other statutes.

100. Wherefore, Plaintiff requests relief as hereinafter provided.

FIFTH CAUSE OF ACTION

FAILURE TO PAY WAGES AT TIME OF

TERMINATION IN VIOLATION OF CAL. LABOR CODE §§ 201-203

(By Plaintiff and Members of the Terminated Sub Class Against Defendants)

101. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

102. At all times, relevant herein, Defendants were required to pay their employees all wages

owed in a timely fashion during and at the end of their employment, pursuant to California *Labor Code* §§ 201-203.

103. As a pattern and practice, Defendants regularly failed to pay Plaintiff and the members of the Terminated Sub Class their final wages pursuant to California *Labor Code* §§ 201-203, and accordingly owe waiting time penalties pursuant to California *Labor Code* § 203.

104. The conduct of Defendants and its agents and managerial employees as described herein was willful, and in violation of the rights of Plaintiff and the individual members of the Terminated Sub Class.

105. Plaintiff is informed and believes, and based thereon alleges, that Defendants' willful failure to pay wages due and owing them upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and Class Members who have separated from employment are entitled to compensation pursuant to California *Labor Code* § 203.

SIXTH CAUSE OF ACTION

FAILURE TO REIMBURSE EXPENSES IN VIOLATION OF

CALIFORNIA LABOR CODE §2802

(by Plaintiff and the Members of the Plaintiff Class against Defendant)

106. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

107. Pursuant to California *Labor Code* §2802(a) an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

108. Defendants have intentionally and willfully failed to reimburse and/or pay Plaintiff and the members of the Plaintiff Class for business-related expenses, including, but not limited to, mileage expenses.

109. As a result of Defendants' violation of California *Labor Code* §2802(a), Plaintiff and the members of the Plaintiff Class have suffered injury and damage to their statutorily-protected rights.

110. More specifically, Plaintiff and the members of the Plaintiff Class have been injured by Defendants' intentional and willful violation of California *Labor Code* §2802(a), because they were denied both their legal right and protected interest, in the reimbursement and payment of business-related expenses.

SEVENTH CAUSE OF ACTION

VIOLATIONS OF CALIFORNIA

BUSINESS AND PROFESSIONS CODE SECTION 17200, et seq.

(By Plaintiff and the Members of the Plaintiff Class Against Defendant)

111. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

112. Section 17200 of the California *Business and Professions Code* prohibits any unlawful, unfair or fraudulent business act or practice.

113. Plaintiff brings this cause of action in a representative capacity on behalf of the general public and the persons affected by the unlawful and unfair conduct described herein. Plaintiff and members of the Plaintiff Class have suffered, and continue to suffer, injury in fact and monetary damages because of Defendants' actions.

114. The actions by Defendants as herein alleged amount to conduct which is unlawful and a violation of law. As such, said conduct amounts to unfair business practices in violation of California *Business and Professions Code* § 17200, *et seq.*

115. Defendants' conduct as herein alleged has damaged Plaintiff and the members of the Plaintiff Class by denying them wages due and payable, by failing to provide proper meal and rest breaks, and by failing to pay all wages due in a timely manner at the time of termination (for the Terminated Sub Class). Defendants' actions are thus substantially injurious to Plaintiff and the members of the Plaintiff Class, causing them injury in fact and loss of money.

116. Because of such conduct, Defendants have unlawfully and unfairly obtained monies due to the Plaintiff and the members of the Plaintiff Class.

117. All members of the Plaintiff Class can be identified by reference to payroll and related records in the possession of the Defendants. The amount of wages due to Plaintiff and members of the

1 Plaintiff Class can be readily determined from Defendants' records. The Class Members are entitled to
2 restitution of monies due and obtained by Defendants during the Class Period as a result of Defendants'
3 unlawful and unfair conduct.

4 118. During the Class Period, Defendants committed, and continue to commit, acts of unfair
5 competition as defined by § 17200, *et seq.*, of the *Business and Professions Code*, by and among other
6 things, engaging in the acts and practices described above.

7 119. Defendants' course of conduct, acts, and practices in violation of the California law as
8 mentioned in each paragraph above constitutes a separate and independent violation of § 17200, etc., of
9 the *Business and Professions Code*.

10 120. The harm to Plaintiff and the members of the Plaintiff Class of being wrongfully denied
11 lawfully earned and unpaid wages outweighs the utility, if any, of Defendants' policies and practices and,
12 therefore, Defendants' actions described herein constitute an unfair business practice or act within the
13 meaning of *Business and Professions Code* § 17200.

14 121. Defendants' conduct described herein threatens an incipient violation of California's wage
15 and hour laws, and/or violates the policy or spirit of such laws, or otherwise significantly threatens or
16 harms competition.

17 122. Defendants' course of conduct described herein further violates California *Business and*
18 *Professions Code* § 17200 in that it is fraudulent, improper, and unfair.

19 123. The unlawful, unfair, and fraudulent business practices and acts of Defendants as described
20 herein-above have injured Plaintiff and members of the Plaintiff Class in that they were wrongfully denied
21 the timely and full payment of wages due to them.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff and Class Members pray for judgment as follows:

- 24 1. An order that the action be certified as a class action;
25 2. An order that counsel for Plaintiff be appointed class counsel;
26 3. For restitution of all monies due to Plaintiff and the members of the Plaintiff Class and
27 disgorgement of all profits from the unlawful business practices of Defendant;
28 4. For compensatory damages;

- 1 5. For penalties pursuant to California *Labor Code* §§ 200, 218.5, 226, 226.7, 226.3;
- 2 6. For interest accrued to date;
- 3 7. For costs of suit and expenses incurred herein pursuant to California *Labor Code* §§ 226
- 4 and 1194;
- 5 8. For reasonable attorneys' fees pursuant to California *Labor Code* §§ 226, and 1194; and,
- 6 9. A declaratory judgment that Defendants have knowingly and intentionally violated the
- 7 following provisions of law:
- 8 a. California *Labor Code* §§ 1194, 510, by failing to pay all wages owed;
- 9 b. California *Labor Code* § 226, by failing to provide the information required with
- 10 each payment of wages;
- 11 c. California *Labor Code* §§ 201-203, by failing to pay all wages when due and by
- 12 willfully failing to make timely payment of the full wages due to workers who quit or have
- 13 been discharged;
- 14 d. California *Labor Code* § 226.7 by failing to provide proper meal and rest breaks
- 15 mandated by law;
- 16 e. California *Labor Code* § 2802 by failing to reimburse business expenses; and
- 17 f. California *Business & Professions Code* §§ 17200-08 by violating the provisions
- 18 set forth herein above; and,
- 19 10. For all such other and further relief that the Court may deem just and proper.

20 DATED: November 30, 2020

BRADLEY/GROMBACHER LLP
LAW OFFICES OF SAHAG MAJARIAN II

21
22 By: 

Marcus J. Bradley, Esq.
Kiley L. Grombacher, Esq.
Lirit A. King, Esq.
Sahag Majarian II, Esq.

Attorneys for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable as a matter of right.

DATED: November 30, 2020

BRADLEY/GROMBACHER, LLP
LAW OFFICES OF SAHAG MAJARIAN II

By: 

Marcus J. Bradley, Esq.
Kiley L. Grombacher, Esq.
Lirit A. King, Esq.
Sahag Majarian II, Esq.

Attorneys for Plaintiff