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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

DOMINGO MUNOZ MORALES, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

JUAN CARLOS ARRELLANO MEDINA,
dba CYPRESS FLC, an individual;
CASTLEROCK FARMING, LLC, a
California Limited Liability Company;
CASTLEROCK FARM HOLDINGS, LLC, a
California Limited Liability Company;
CASTLEROCK FARMING AND
TRANSPORT, LLC, a California Limited
Liability Company; and DOES 1 through 100,

Defendants.

Case No.: BCV-20-102941__

Amended as a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, AND 1197);**
- (2) **FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
551, 552, 558, 1194, AND 1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.2, 226.7, AND
516);**
- (5) **FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS
(LABOR CODE § 226 *et seq.*);**
- (6) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); AND**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Domingo Munoz Morales (“Plaintiff”), on behalf of himself and all others
2 similarly situated, hereby brings this First Amended Class and Representative Action Complaint
3 (“FAC”) against Juan Carlos Arrellano Medina, dba Cypress FLC, an individual; Castlerock
4 Farming, LLC, a California Limited Liability Company; Castlerock Farm Holdings, LLC, a
5 California Limited Liability Company; Castlerock Farming and Transport, LLC, a California
6 Limited Liability Company; and, DOES 1 to 100, inclusive (collectively “Defendants”), and on
7 information and belief alleges as follows:

8 **JURISDICTION**

9 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
10 Complaint for recovery of unpaid wages and penalties under California Business & Professions
11 Code § 17200 *et. seq.*, Labor Code §§ 201-203, 226.2, 226.7, 510, 512, 516, 558, 1182.12, 1194,
12 1194.2, 1197, 1198, and 2698 *et seq.*; and Industrial Welfare Commission Wage Order 14 (“Wage
13 Order 14”), in addition to seeking declaratory relief and restitution. This Complaint is brought
14 pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
15 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
16 this Court's jurisdictional minimum.

17 **VENUE**

18 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
19 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
20 County of Kern. One or more of the Defendants, transact business, have agent(s) within the
21 County of Kern, and/or otherwise are found within the County of Kern, and Defendants are within
22 the jurisdiction of this Court for purposes of service of process.

23 **PARTIES**

24 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
25 Plaintiff was and currently is, a California resident. During the four years immediately preceding
26 the filing of the Complaint in this action and within the statute of limitations periods applicable
27 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
28 employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices complained of

1 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
2 §§ 201-203, 226.2, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, and 1198; California
3 Business & Professions Code § 17200 *et seq.* (“Unfair Competition Law”); and Wage Order 14,
4 which sets employment standards for Agricultural Occupations.

5 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
6 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
7 continue to do) business by employing seasonal farm labor employees to harvest agricultural
8 commodities in the United States, and employed Plaintiff and other, similarly-situated non-
9 exempt employees within Kern County and the state of California and, therefore, were (and are)
10 doing business in Kern County and the State of California.

11 5. Plaintiff does not know the true names or capacities, whether individual, partner,
12 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
13 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
14 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
15 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
16 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
17 and proximately caused Plaintiff and the Classes (as defined herein) to be subject to the unlawful
18 employment practices, wrongs, injuries and damages complained of herein.

19 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
20 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

21 7. At all times herein mentioned, each of said Defendants participated in the doing
22 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
23 Defendants, and each of them, were the agents, servants, and employees of each and every one of
24 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
25 were acting within the course and scope of said agency and employment. Defendants, and each
26 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
27 omissions complained of herein.

28 8. At all times mentioned herein, Defendants, and each of them, were members of

1 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
2 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
3 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
4 members of the Classes.

5 9. Defendants Castlerock Farming, LLC; Castlerock Farm Holdings, LLC; and
6 Castlerock Farming and Transport, LLC are also jointly liable with Defendant Juan Carlos
7 Arrellano, dba Cypress FLC for all civil legal responsibility and civil liability for the payment of
8 wages, including all sums payable to an employee or the state of California based upon any failure
9 to pay wages, pursuant to Labor Code §2810.3.

10 **GENERAL FACTUAL ALLEGATIONS**

11 10. Defendants are in the agricultural business and employ seasonal farm labor
12 employees to harvest agricultural goods. Plaintiff worked for Defendants as a non-exempt farm
13 labor employee on a seasonal basis from approximately December 2018 until approximately
14 December 2019. Plaintiff's primary job duties revolved around driving a tractor for the purpose
15 of harvesting table grapes for Defendants.

16 11. Plaintiff and other non-exempt employees were in most workweeks paid on a
17 piece-rate basis whereby they were paid a set rate of approximately \$65.00 to \$80.00 per bin they
18 were able to fill with grapes. Plaintiff and other non-exempt were allegedly paid an hourly
19 minimum wage if their earned piece-rate compensation did not exceed their minimum wages
20 earned in a pay period. However, on information and belief, Plaintiff alleges that Defendants did
21 not employ any actual timekeeping practices when he performed piece work and at no point
22 was Plaintiff made to confirm or sign off on his hours worked. Rather, Defendants employed a
23 systemic policy/practice of only crediting Plaintiff and other non-exempt employees for work
24 performed during their pre-scheduled hours regardless of how many hours they actually worked.
25 Defendants have not boarded or lodged Plaintiff during his employment.

26 12. Plaintiff was generally tasked with working Monday-Sunday from approximately
27 6:00-6:30 a.m. until 12:30-1:30 p.m., and often even later. On those occasions where Plaintiff
28 worked overtime hours during the week, Plaintiff was rarely, if ever, compensated at the requisite

1 overtime rate of pay. Despite the fact that Plaintiff and other non-exempt employees were
2 regularly tasked with working seven days a week, Defendants as a matter of practice and policy
3 failed to pay them the proper overtime rate on their seventh day worked. Upon information and
4 belief, Defendants did not pay any overtime hours to Plaintiff and other non-exempt employees
5 at any time regardless of whether they were performing work on a piece rate or hourly basis.

6 13. Throughout Plaintiff's employment, Defendants' foreperson failed to record the
7 hours Plaintiff worked. Plaintiff was not paid an hourly minimum wage if his earned piece-rate
8 compensation did not exceed his minimum wages earned in a pay period pursuant to Wage Order
9 14, nor was he provided any sort of overtime compensation despite frequently working the
10 requisite amount of hours to be entitled to overtime wages

11 14. Plaintiff and other non-exempt employees were not authorized to take all legally
12 required rest periods regardless of whether they were working on a piece-rate or hourly basis. On
13 those occasions where Plaintiff and other non-exempt employees performed piece work for
14 Defendants, Defendants routinely failed to pay the correct regular rate for rest and recovery
15 periods. Rather, Defendants would pay Plaintiff and other non-exempt employees for a grand
16 total of 15 minutes each shift for rest and recovery periods despite the fact that they typically
17 worked over six hours in the day which should have entitled them to at least 20 minutes in paid
18 rest period compensation. As a consequence, Plaintiff and other non-exempt employees were
19 systematically denied at least five minutes of paid rest period compensation every shift worked
20 that they were duly and legally entitled to. Despite Defendants' failure to authorize and permit
21 Plaintiff and other non-exempt employees to take all lawful paid rest periods, due to their uniform
22 and unlawful practices, Defendants never provided Plaintiff and other non-exempt employees
23 with an hour of pay at their regular rate for each rest period violation as required by Labor Code
24 § 226.7. Upon information and belief, during at least a portion of the class period, Defendants
25 maintained no payroll code or another mechanism for the payment of rest period premiums in the
26 event Plaintiff and other non-exempt employees were not authorized to take lawful rest periods.

27 15. Defendants have failed to accurately record and compensate Plaintiff and other
28 non-exempt employees who are compensated on a piece-rate basis for non-productive time. *See*

1 *Gonzalez v. Downtown LA Motors, LP* (2013) 215 Cal.App.4th 36 (holding that a piece-rate
2 compensation structure that does not separately compensate employees for non-productive time
3 violates California minimum wage laws). Plaintiff and other non-exempt employees were
4 required to perform work duties and activities that were not directly compensated on a piece-rate
5 basis. Specifically, for example, Plaintiff and other non-exempt employees would be made to
6 wait for large trucks to pass through the fields before they could commence working and were in
7 no way compensated for this time. Plaintiff and other non-exempt employees were required to
8 wait anywhere from thirty minutes to an hour for the trucks to pass through, a bi-weekly
9 occurrence. Furthermore, on those occasions where the weather conditions did not immediately
10 permit Plaintiff and other non-exempt employees to commence work, they would have to wait
11 for the conditions to improve before they were permitted to begin their shifts. This time spent
12 waiting for fog to clear up would cause Plaintiff and other non-exempt employee to have to wait
13 anywhere from thirty minutes to several hours and at no point did Defendants ever provide any
14 sort of compensation for Plaintiff and other non-exempt employees for this time. Furthermore,
15 Plaintiff and other non-exempt employees would be made to wait in line on a daily basis to have
16 their bins of grapes weighed by Defendants without any sort of compensation. Additionally,
17 employees were not compensated for bathroom and water breaks, waiting in lines, and/or other
18 mandatory duties that were not directly compensated on a piece-rate basis. Plaintiff alleges that
19 all this wait time constitutes unproductive worktime which must be compensated under California
20 law. Accordingly, Plaintiff estimates that he and other non-exempt employees worked at least an
21 additional 2.5-5.0 hours per week of non-productive time. Plaintiff alleges that Defendants have
22 not accurately tracked and compensated employees' non-productive time in compliance with
23 Labor Code § 226.2.

24 16. Defendants have also failed to record employees' total hours worked each
25 workday accurately. Specifically, Defendants' forepersons did not record the hours worked in any
26 fashion apparent to Plaintiff and the other non-exempt employees when they were performing
27 piece rate work. Plaintiff never formally clocked in or clocked out during his shifts and was never
28 provided any sort of timecard reflecting the hours he worked. Rather, Defendants tracked Plaintiff

1 and the non-exempt employees piece rate compensation exclusively while failing to record the
2 actual number of hours worked in any manner. As a result, Defendants failed to ensure that
3 Plaintiff and other non-exempt employees were being paid at least the minimum wage for all
4 hours actually worked, and failed to ensure that Plaintiff and other non-exempt employees
5 received proper overtime wages for all overtime hours worked, in compliance with Wage Order
6 14.

7 17. Defendants also did not provide Plaintiff and other non-exempt employees with a
8 legally complaint first meal period when they worked shifts in excess of 6.0 hours. Plaintiff and
9 other non-exempt employees rarely, if ever, were entitled to exercise the use of a thirty-minute
10 uninterrupted meal period despite almost always working at least 6.0 hours in a day. Rather,
11 Plaintiff and other non-exempt employees would work through their shifts without taking any
12 time for a compliant meal period. Plaintiff and other non-exempt employees were not only unable
13 to exercise the use of compliant meal periods, they were unaware of their right to do so. Plaintiff
14 and the other non-exempt employees were not informed by Defendants of their legal right to take
15 duty-free uninterrupted meal periods before the conclusion of their fifth hour of work pursuant to
16 Labor Code Section 512. Defendants were not only aware of, but actively encouraged this
17 practice. Defendants also failed to provide second meal periods when non-exempt employees
18 worked shifts in excess of 10.0 hours. Upon information and belief, Defendants' forepersons did
19 not accurately record meal periods in any manner. Despite Defendants' failure to provide Plaintiff
20 and other non-exempt employees with all lawful meal periods due to their uniform and unlawful
21 practices, Defendants never provided Plaintiff and other non-exempt employees with an hour of
22 pay at their regular rate for each meal period violation as required by Labor Code § 226.7.

23 18. As a result of Defendants' failure to accurately compensate Plaintiff and other
24 non-exempt employees for non-productive time, failure to pay all minimum and overtime wages,
25 and failure to provide all required meal periods and authorize all rest periods or pay premium pay
26 in lieu thereof, Defendants have maintained inaccurate payroll records, failed to timely pay all
27 wages owed to separating employees at the time of their separation, and issued inaccurate wage
28 statements.

CLASS ACTION ALLEGATIONS

19. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- a. The Rest Period Class consists of all current and former non-exempt employees of Domingo Munoz Morales dba Cypress FLC who performed work for Castlerock Farming, LLC, Castlerock Farm Holdings, LLC, and/or Castlerock Farming and Transport, LLC in California who worked at least one shift in excess of 3.5 hours during the four years immediately preceding the filing of this lawsuit through the present.
- b. The Minimum Wage Class consists of all current and former non-exempt employees of Domingo Munoz Morales dba Cypress FLC who performed work for Castlerock Farming, LLC, Castlerock Farm Holdings, LLC, and/or Castlerock Farming and Transport, LLC in California that were compensated on a piece-rate or hourly basis during the four years immediately preceding the filing of this lawsuit through the present.
- c. The Overtime Wage Class consists of all current and former non-exempt employees of Domingo Munoz Morales dba Cypress FLC who performed work for Castlerock Farming, LLC, Castlerock Farm Holdings, LLC, and/or Castlerock Farming and Transport, LLC in California who worked overtime hours (based on criteria set forth in Wage Order 14) during the four years immediately preceding the filing of this lawsuit through the present.
- d. The Meal Period Class consists of all current and former non-exempt employees of Domingo Munoz Morales dba Cypress FLC who performed work for Castlerock Farming, LLC, Castlerock Farm Holdings, LLC, and/or Castlerock Farming and Transport, LLC in California who: (i) worked at least one shift in excess of 5.0 hours without a meal period of at least 30 minutes in duration commencing prior to the conclusion of the fifth hour of work, and who do not have a corresponding meal period premium payment made for such shifts and/or (ii)

1 worked at least one shift in excess of 10.0 hours while performing work for
2 Castlerock Farming, LLC, Castlerock Farm Holdings, LLC, and/or Castlerock
3 Farming and Transport, LLC in California without a second meal period of at least
4 30 minutes in duration commencing prior to the conclusion of the tenth hour of
5 work, and who do not have a corresponding meal period premium payment made
6 for such shifts during the four years preceding the filing of this lawsuit through the
7 present.

8 e. The Wage Statement Class consists of all members of the Rest Period Class,
9 Minimum Wage Class, Overtime Class, and/or Meal Period Class who received a
10 wage statement from Defendants during the one year immediately preceding the
11 filing of this lawsuit through the present.

12 f. The Waiting Time Class consists of all Defendants' formerly employed members
13 of the Rest Period Class, Minimum Wage Class, Overtime Class, and Meal Period
14 Class who separated from employment during the three years immediately
15 preceding the filing of this lawsuit through the present.

16 20. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
17 joinder of all members would be unfeasible and not practicable. The membership of the Classes
18 is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes
19 number greater than two hundred (200) individuals. The identity of such membership is readily
20 ascertainable via inspection of Defendants' employment records.

21 21. **Common Questions of Law and Fact Predominate/Well Defined Community**
22 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
23 situated employees, which predominate over questions affecting only individual members. Those
24 common questions include, without limitation:

- 25 i. Whether Defendants correctly compensated employees for rest periods pursuant
26 to Labor Code § 226.2;
- 27 ii. Whether Defendants paid all minimum wages owed for all hours worked to
28 members of the Minimum Wage Class pursuant to Labor Code §§ 118.2, 1194,

1194.2, and 1197;

- iii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 and Wage Order 14 by requiring members of the Overtime Wage Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iv. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Minimum Wage Class;
- v. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vi. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- vii. Whether Defendants provided accurate, itemized wage statements to members of the Classes; and
- viii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were lawful.

22. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform piece-rate pay structure, meal and rest period policies and practices, timekeeping policies and practices, non-reimbursement, and payment of final wages policies and practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

23. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was paid on a piece-rate and hourly basis, was

1 subject to Defendants' meal and rest period and timekeeping policies and practices, and was not
2 paid all wages earned at the time of his separation of employment.

3 24. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
4 to represent fairly and adequately the interests of the members of the Classes. Moreover,
5 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
6 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
7 and-hour class actions in state and federal courts in the past and are committed to vigorously
8 prosecuting this action on behalf of the members of the Classes.

9 25. **Superiority:** The California Labor Code is broadly remedial in nature and serves
10 an important public interest in establishing minimum working conditions and standards in
11 California. These laws and labor standards protect the average working employee from
12 exploitation by employers who have the responsibility to follow the laws and who may seek to
13 take advantage of superior economic and bargaining power in setting onerous terms and
14 conditions of employment. The nature of this action and the format of laws available to Plaintiff
15 and members of the Classes make the class action format a particularly efficient and appropriate
16 procedure to redress the violations alleged herein. If each employee were required to file an
17 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
18 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
19 their vastly superior financial and legal resources. Moreover, requiring each member of the
20 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
21 employees who would be disinclined to file an action against their former and/or current employer
22 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
23 employment. Further, the prosecution of separate actions by the individual class members, even
24 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
25 with respect to the individual class members against Defendants herein; and which would
26 establish potentially incompatible standards of conduct for Defendants; and/or legal
27 determinations with respect to individual class members which would, as a practical matter, be
28 dispositive of the interest of the other class members not parties to adjudications or which would

1 substantially impair or impede the ability of the class members to protect their interests. Further,
2 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
3 individual prosecution considering all of the concomitant costs and expenses attending thereto.
4 As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of
5 Civil Procedure.

6 **FIRST CAUSE OF ACTION**

7 **MINIMUM WAGE VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

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

10 27. Wage Order 14, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
11 right of employees to be paid minimum wages for all hours worked in amounts set by state law.
12 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
13 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
14 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
15 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform
16 their pay practices to the requirements of the law by failing to pay Plaintiff and the Minimum
17 Wage Class for all hours actually worked including, but not limited to, all hours they were subject
18 to the control of Defendants and/or suffered or permitted to work under the California Labor Code
19 and Wage Order 14.

20 28. California Labor Code § 1198 makes unlawful the employment of an employee
21 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
22 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
23 those employees the balance of the unpaid wages as well as liquidated damages in an amount
24 equal to the wages due and interest thereon.

25 29. As a direct and proximate result of Defendants' unlawful conduct as alleged
26 herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but
27 not limited to, unpaid wages and lost interest in an amount to be established at trial, and they are
28 entitled to recover economic and statutory damages and penalties and other appropriate relief as

1 a result of Defendants' violations of the California Labor Code and Wage Order 14.

2 30. Defendants' practice and uniform administration of corporate policy regarding
3 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
4 members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages,
5 liquidated damages, including interest thereon, statutory penalties, and attorneys' fees and costs
6 of suit according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of
7 Civil Procedure § 1021.5.

8 **SECOND CAUSE OF ACTION**

9 **FAILURE TO PAY ALL OVERTIME WAGES**

10 **(AGAINST AL DEFENDANTS)**

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

12 32. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
13 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
14 overtime hours worked, and provide a private right of action for the failure to pay all overtime
15 compensation for overtime work performed.

16 33. At all times relevant herein, Defendants were required to properly compensate
17 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
18 Labor Code § 1194 and Wage Order 14. Wage Order 14, § 3 requires an employer to pay overtime
19 wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth
20 in the Wage Order.

21 34. At all times relevant herein, Defendants caused Plaintiff and other non-exempt
22 employees to work overtime hours but did not compensate Plaintiff or members of the Overtime
23 Class at one and one-half times their regular rate of pay for such hours.

24 35. The foregoing policies and practices are unlawful and create entitlement to
25 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
26 premiums owing, including interest thereon, statutory and civil penalties, and attorneys' fees and
27 costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order
28 14, and Code of Civil Procedure § 1021.5.

1 Civil Code §§ 3287(b) and 3289.

2 **FIFTH CAUSE OF ACTION**

3 **WAGE STATEMENT VIOLATIONS**

4 **(AGAINST ALL DEFENDANTS)**

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

6 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
7 knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiff
8 and the Wage Statement Class with accurate, itemized wage statements that included, among
9 other requirements, accurate total gross wages earned, non-productive time compensation, meal
10 and rest period premiums, and total net wages earned in violation of Labor Code §226 *et seq.*

11 45. Defendants' failure to furnish Plaintiff and the members of the Wage Statement
12 Class with complete and accurate, itemized wage statements resulted in actual injury, as said
13 failures led to, among other things, the non-payment of all of their meal and rest period
14 premiums, and deprived them of the information necessary to identify discrepancies in
15 Defendants' reported data.

16 46. Defendants' failures created an entitlement to Plaintiff and members of the Wage
17 Statement Class in a civil action for damages and/or penalties pursuant to Labor Code § 226,
18 including statutory penalties civil penalties, reasonable attorneys' fees, and costs according to
19 suit pursuant to Labor Code § 226 *et seq.*

20 **SIXTH CAUSE OF ACTION**

21 **WAITING TIME PENALTIES**

22 **(AGAINST ALL DEFENDANTS)**

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

24 48. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
25 an employer to pay all wages immediately at the time of termination of employment in the event
26 the employer discharges the employee or the employee provides at least 72 hours of notice of
27 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
28 intent to quit, said employee's wages become due and payable not later than 72 hours upon said

1 employee's last date of employment.

2 49. Defendants failed to timely pay Plaintiff and members of the Waiting Time Class
3 all final wages due to them at the time of their separation including, among other things, unpaid
4 amounts for rest and recovery periods and non-productive time, underpaid overtime and
5 minimum wages owed, and meal and rest period premium wages. Further, Plaintiff is informed
6 and believes, and based thereon alleges, that as a matter of uniform policy and practice,
7 Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the
8 end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.
9 Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

10 50. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
11 Time Class their earned wages upon separation from employment results in a continued payment
12 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
13 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
14 plus reasonable attorneys' fees and costs of suit.

15 **SEVENTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION**

17 **(AGAINST ALL DEFENDANTS)**

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

19 52. Defendants have engaged and continue to engage in unfair and/or unlawful
20 business practices in California in violation of California Business and Professions Code § 17200
21 *et seq.*, by failing to pay Plaintiff and the Classes all overtime and minimum wages, failing to
22 provide all required meal periods, failing to authorize and permit all required rest periods, failing
23 to pay meal and rest period premium wage payments, failing to compensate employees for non-
24 productive time, failing to furnish accurate wage statements, and willfully failing to timely pay
25 Plaintiff and members of the Waiting Time Class all final wages upon separation of employment.

26 53. Defendants' utilization of these unfair and/or unlawful business practices deprived
27 Plaintiff and continues to deprive members of the Classes of compensation to which they are
28 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage