

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address):

Galen T. Shimoda (SBN 226752) Justin P. Rodriguez (SBN 278275)

Brittany V. Berzin (SBN 325121) Renald Konini (SBN 312080)

SHIMODA LAW CORP

9401 E. Stockton Blvd, Suite 120, Elk Grove, California 95624

TELEPHONE NO.: 916-525-0716

FAX NO.: 916-760-3733

ATTORNEY FOR (Name): Plaintiff Loni Garcia

FOR COURT USE ONLY

FILED/ENDORSED

JAN 21 2021

By: K. Johnson
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento

STREET ADDRESS: 720 Ninth Street

MAILING ADDRESS: 720 Ninth Street

CITY AND ZIP CODE: Sacramento 95814

BRANCH NAME: Civil Division

CASE NAME:

Garcia v Aquality Water Management, Inc., et al.

CIVIL CASE COVER SHEET

- ☒ **Unlimited**
(Amount demanded exceeds \$25,000)
- ☐ **Limited**
(Amount demanded is \$25,000 or less)

Complex Case Designation

- ☐ **Counter** ☐ **Joinder**

Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

34E2021-00292794

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- ☐ Auto (22)
- ☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)
- ☐ Product liability (24)
- ☐ Medical malpractice (45)
- ☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)
- ☐ Civil rights (08)
- ☐ Defamation (13)
- ☐ Fraud (16)
- ☐ Intellectual property (19)
- ☐ Professional negligence (25)
- ☐ Other non-PI/PD/WD tort (35)

Employment

- ☐ Wrongful termination (36)
- ☒ Other employment (15)

Contract

- ☐ Breach of contract/warranty (06)
- ☐ Rule 3.740 collections (09)
- ☐ Other collections (09)
- ☐ Insurance coverage (18)
- ☐ Other contract (37)

Real Property

- ☐ Eminent domain/Inverse condemnation (14)
- ☐ Wrongful eviction (33)
- ☐ Other real property (26)

Unlawful Detainer

- ☐ Commercial (31)
- ☐ Residential (32)
- ☐ Drugs (38)

Judicial Review

- ☐ Asset forfeiture (05)
- ☐ Petition re: arbitration award (11)
- ☐ Writ of mandate (02)
- ☐ Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

- ☐ Antitrust/Trade regulation (03)
- ☐ Construction defect (10)
- ☐ Mass tort (40)
- ☐ Securities litigation (28)
- ☐ Environmental/Toxic tort (30)
- ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐ RICO (27)
- ☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)
- ☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. ☐ Substantial amount of documentary evidence
- d. ☐ Large number of witnesses
- e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): Eight

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 20, 2021

Galen T. Shimoda

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed in sanctions).
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

AQUALITY WATER MANAGEMENT, INC., a California Corporation;
JOSH BROWN, an individual; and DOES 1 to 100, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

LONI GARCIA, individually and on behalf of all other similarly situated employees,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED/ENDORSED

JAN 25 2021

By: K. Johnson
Deputy Clerk

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

Superior Court of California, County of Sacramento
720 Ninth Street
Sacramento, CA 95814

CASE NUMBER 2021-00292794
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Galen T. Shimoda (SBN 226752) Justin Rodriguez (SBN 278275) Brittany V. Berzin (SBN 325121)

Renald Konini (SBN 312080) 9401 East Stockton Blvd, # 120, Elk Grove, California 95624 (916) 525-0716

DATE: JAN 25 2021
(Fecha)

Clerk, by K. JOHNSON, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

- ☐ by personal delivery on (date):



FILED/ENDORSED

JAN 21 2021

By: K. Johnson
Deputy Clerk

1 Galen T. Shimoda (Cal. State Bar No. 226752)
2 Justin P. Rodriguez (Cal. State Bar No. 278275)
3 Brittany V. Berzin (Cal. State Bar No. 325121)
4 Renald Konini (Cal. State Bar No. 312080)

Shimoda Law Corp.

5 9401 East Stockton Boulevard, Suite 120
6 Elk Grove, CA 95624
7 Telephone: (916) 525-0716
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff LONI GARCIA,
10 on behalf of herself and similarly situated employees

11 **SUPERIOR COURT OF CALIFORNIA**
12 **FOR THE COUNTY OF SACRAMENTO**

13 LONI GARCIA, individually and on behalf of)
14 all other similarly situated employees,)

15 Plaintiff,

16 vs.

17 AQUALITY WATER MANAGEMENT,
18 INC., a California Corporation; JOSH
19 BROWN, an individual; and DOES 1 to 100,
20 inclusive,

21 Defendants.

Case No. 34-2021-00292794

CLASS ACTION

COMPLAINT FOR DAMAGES:

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Unfair Competition
8. Private Attorneys General Act

DEMAND FOR JURY TRIAL

FILED BY FAX

1 Plaintiff LONI GARCIA ("Plaintiff"), on behalf of herself and all other similarly situated
2 employees, hereby files this Complaint against Defendants AQUALITY WATER MANAGEMENT,
3 INC., a California Corporation; JOSH BROWN, an individual; and DOES 1 to 100, inclusive
4 (hereinafter all collectively referred to as "Defendants"). On information and belief, Plaintiff allege
5 the following:

6 INTRODUCTION

7 1. This is a class action lawsuit brought by Plaintiff on behalf of herself and similarly
8 situated employees seeking unpaid overtime wages, minimum wages, meal period premiums, rest period
9 premiums, and statutory penalties for violations of the California Labor Code. Plaintiff has also alleged
10 a Private Attorneys General Act ("PAGA") cause of action.

11 JURISDICTION AND VENUE

12 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
13 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
14 Labor Code, California Business and Professions Code, and Wage Order No. 4.

15 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), and 395.5, in that
16 Defendant resides in Sacramento County, does business in Sacramento County, and Defendant's
17 principal place of business is in Sacramento County.

18 4. Plaintiff sought permission pursuant to Labor Code section 2699 *et seq.* to pursue the
19 claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of herself
20 and other similarly situated employees. Pursuant to Labor Code section 2699.3, Plaintiff gave written
21 notice via online submission to the Labor and Workforce Development Agency ("LWDA") on
22 approximately November 9, 2020. Plaintiff provided facts and legal bases for her claims within the
23 notice to the LWDA on all violations asserted under the Private Attorneys General Act cause of action.
24 Plaintiff submitted the \$75.00 filing fee. The November 9, 2020 notice was also sent via certified mail
25 to Defendants on the same day. Plaintiff is informed and believes, that to date, the LWDA has not
26 provided any response to Plaintiff's notice correspondence. Accordingly, Plaintiff is informed and
27 believes that she has exhausted all administrative remedied pursuant to the Private Attorneys General
28 Act and may bring this action on behalf of herself and all similarly situated employees. *See* Cal. Labor

Code § 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc. v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19 (2005).

PARTIES

5. LONI GARCIA is an individual over the age of eighteen (18) and is a resident of the State of California.

6. On information and belief, Plaintiff alleges, AQUALITY WATER MANAGEMENT, INC., is now and/or at all times mentioned in this Complaint was a California Corporation and the owner and operator of an industry, business and/or facility doing business in the State of California.

7. Plaintiff is informed and believes, and thereupon alleges, that JOSH BROWN is an individual over the age of eighteen (18) and is a resident of the State of California. Plaintiff further alleges that JOSH BROWN is an owner, director, officer, and/or managing agent of AQUALITY WATER MANAGEMENT, INC. responsible for causing the violations outlined in the first through seven and nine causes of action. As such JOSH BROWN is individually liable pursuant to California Labor Code section 558.1.

8. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true names and capacities of these DOE Defendants when they are ascertained. At all times mentioned herein, each Defendant was the agent or employee of each of the other Defendants and was acting within the course and scope of such agency or employment. The Defendants are jointly and severally liable to Plaintiff.

9. At all times mentioned herein, each Defendant was the agent or employee of each of the other Defendants and was acting within the course and scope of such agency or employment. The Defendants are jointly and severally liable to Plaintiff.

10. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in a joint employment, joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint employment, joint venture, partnership and common enterprise.

11. Defendants, and each of them, now and/or at all times mentioned in this Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

12. Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

CLASS ALLEGATIONS

13. Plaintiff brings the (First) through (Seventh) Causes of Action on behalf of herself and all others similarly situated as a class action pursuant to California Code of Civil Procedure section 382. The class which Plaintiff seeks to represent is composed of, and defined, as follows:

All non-exempt, hourly employees who worked for Defendant in California from four (4) years prior to the filing of this Complaint to the present.

14. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

(a) **Numerosity**: The putative class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff at this time, Plaintiff is informed and believes that Defendants have employed as many as fifty (50) individuals falling within the above stated class definition throughout the State of California during the applicable statute of limitations, who were subjected to the policies and practices outlined in this Complaint. As such, joinder of all members of the putative class is not practicable.

(b) **Common Questions Predominate**: Common questions of law and fact exist as to all members of the putative class and predominate over questions that affect only individual members of the class. These common questions of law and fact include, without limitation, the following:

(1) Whether Defendants had an improper system to record the hours worked of employees;

(2) Whether as a result of Defendants' policies, or lack thereof, Defendants failed to pay Plaintiff and the putative class all wages, including overtime, they were owed;

- 1 (3) Whether as a result of Defendants' policies and practices Plaintiff's and putative
2 class members received all wages, due and owing, at the time of their termination
3 or separation;
- 4 (4) Whether Defendants provided Plaintiff's and putative class members with wage
5 statements that complied with Labor Code section 226;
- 6 (5) Whether Defendants had a policy and/or practice in place to authorize and permit
7 Plaintiff to take all meal periods owed to them; and
- 8 (6) Whether Defendants had a policy and/or practice in place to authorize and permit
9 Plaintiff to take all rest periods owed to them.
- 10 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
11 class. The putative class also sustained damages arising out of Defendants' common
12 course of conduct in violation of the law as complained of herein. Plaintiff and all
13 members of the putative class were non-exempt employees who were not compensated
14 for all overtime hours as a result of Defendants' failure to correctly implement an
15 alternative workweek. Plaintiff and putative class members were also not paid all meal
16 and rest period premiums they were owed as a result of Defendants failure to authorize
17 and permit all meal and rest periods. Additionally, Defendants issued Plaintiff and all
18 members of the putative class wage statements that did not comply with Labor Code
19 section 226. As a result, Plaintiff and each member of the putative class will have
20 suffered the same type of harm and seek the same type of recovery based on the same
21 legal theories.
- 22 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
23 putative class. For all relevant times, Plaintiff resided in California and worked for
24 Defendants in California. Moreover, Plaintiff is an adequate representative of the
25 putative class as Plaintiff has no interests that are adverse to those of putative class
26 members. Additionally, Plaintiff has retained counsel who has substantial experience in
27 complex civil litigation and wage and hour matters.
- 28

1 (e) Superiority: A class action is superior to other available means for the fair and efficient
2 adjudication of the controversy since individual joinder of all members of the putative
3 class is impracticable. Class action treatment will permit a larger number of similarly
4 situated persons to prosecute their common claims in a single forum simultaneously,
5 efficiently, and without the unnecessary duplication of effort and expense that numerous
6 individual actions would engender. Further, as damages suffered by each individual
7 member of the class may be relatively small, the expenses and burden of the individual
8 litigation would make it difficult or impossible for individual members of the class to
9 redress the wrongs done to them, and an important public interest will be served by
10 addressing the matter as a class action. The cost to the court system of adjudication of
11 such individualized litigation would be substantial. Individualized litigation would also
12 present the potential for inconsistent or contradictory judgments.

13 15. Plaintiff is unaware of any difficulties that are likely to be encountered in the
14 management of this action that would preclude its maintenance as a class action.

15 GENERAL ALLEGATIONS

16 16. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 15 as though fully
17 set forth herein. Plaintiff worked for Defendant from approximately February 5, 2020 to June 6, 2020 as
18 an hourly, non-exempt employee. Plaintiff worked as a water operator. Similarly situated employees
19 also worked for Defendants as hourly, non-exempt employees.

20 17. Defendants failed to compensate Plaintiff and Aggrieved Employees for all wages
21 including overtime owed. Defendants failed to accurately record the times of its employees thus
22 leading to shortages in wages paid to Plaintiff and Aggrieved Employees.

23 18. Defendants also failed to authorize and permit Plaintiff and Aggrieved Employees to take
24 all meal and rest periods owed to them, including second meal periods and third rest periods when
25 Plaintiff and Aggrieved Employees worked over ten (10) hours in a shift. This was due to Defendants'
26 practice of scheduling Plaintiff and other Aggrieved Employees to work at least ten (10) hours in a day.
27 Defendants did not pay Plaintiff and Aggrieved Employees for meal and rest period premiums.

28 //

1 19. In addition, Defendants did not keep records of Plaintiff's and Aggrieved Employees'
2 meal periods. Plaintiff and Aggrieved Employees would enter their hours once every two weeks in
3 Defendants' quick books software. Thus, Defendants did not maintain accurate records of Plaintiff's
4 and Aggrieved Employees' work hours and meal periods.

5 20. As a result of Defendants' failure to pay Plaintiff and Aggrieved Employees all overtime
6 wages, minimum wages, and meal and rest period premiums, the wage statements Defendant issued
7 were defective. Specifically, Defendant did not list on Plaintiff's and Aggrieved Employees' wage
8 statements the correct gross and net wages earned, the correct regular and overtime hours, and the total
9 missed meal and rest period premiums earned. Similarly, Defendant's failure to pay all overtime wages
10 minimum wages, and meal and rest period premiums owed also resulted in Defendant's failure to pay
11 Plaintiff and Aggrieved Employees all final wages owed to them within twenty-four (24) hours of their
12 termination or seventy-two (72) hours of their resignation.

13 **CAUSES OF ACTION**

14 **FIRST CAUSE OF ACTION**
15 **FAILURE TO PAY OVERTIME WAGES**
 (As to all Defendants)

16 21. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 20 as though fully
17 set forth herein.

18 22. During the period Plaintiff was employed by Defendants, Defendants were required to
19 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
20 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
21 hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 4, section (3)(A);*
22 *Cal. Lab. Code §§ 510, 1194.*

23 23. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
24 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
25 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
26 worked at their regular rate of pay.

27 24. Plaintiff and similarly situated employees were not exempt from overtime protections
28 employees under the California Wage Orders and Labor Code.

1 25. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
2 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
3 the extent pertinent as if set forth here in full.

4 **SECOND CAUSE OF ACTION**
5 **FAILURE TO PAY MINIMUM WAGES**
6 **(As to all Defendants)**

7 26. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 25 as though fully
8 set forth herein.

9 27. For the period preceding the filing of this Complaint, Defendants were required to
10 compensate Plaintiff and similarly situated employees with at least California's applicable minimum for
11 every hour worked. See MW-Order 2019; IWC Wage Order, No. 4, section 4(A); Cal. Lab. Code §
12 1194. Defendants failed to pay Plaintiff and similarly situated employees for all time they spent
13 working for Defendants.

14 28. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their
15 obligation to pay the minimum wage for each hour worked but failed to do so.

16 29. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
17 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
18 the extent pertinent as if set forth here in full.

19 **THIRD CAUSE OF ACTION**
20 **MEAL PERIOD VIOLATIONS**
21 **(As to all Defendants)**

22 30. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 29 as though fully
23 set forth herein.

24 31. An employer must provide an employee a meal period in accordance with the
25 applicable Wage Order, and California Labor Code sections 226.7 and 512.

26 32. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 4, section
27 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30)
28 minutes for each work period of more than five (5) hours.

33. California Labor Code section 512 and Wage Order No. 4 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

34. Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Defendants failed to allow Plaintiff and similarly situated employees take all their meal periods and also failed to allow Plaintiff and similarly situated employees to take their second meal period before the completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

35. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

36. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

37. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 36 as though fully set forth herein.

38. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

39. California Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

11

1 40. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
2 situated employees to take paid rest periods of at least ten (10) minutes for each work period that
3 they worked more than four (4) hours or a major fraction thereof.

4 41. Defendants further failed to pay Plaintiff and similarly situated employees the
5 applicable rest period premiums for any such missed rest periods.

6 42. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
7 employees have been damaged as stated in the section below entitled "DAMAGES," which is
8 incorporated here to the extent pertinent as if set forth here in full.

9
10 **FIFTH CAUSE OF ACTION**
 WAGE STATEMENT VIOLATIONS
 (As to all Defendants)

11 43. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 42 as though fully
12 set forth herein.

13 44. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
14 statement to an employee, semimonthly or at the time of each payment of wages, showing:

15 *(1) gross wages earned, (2) total hours worked by the employee, except for*
16 *any employee whose compensation is solely based on a salary and who is*
17 *exempt from payment of overtime under subdivision (a) of Section 515 or*
18 *any applicable order of the Industrial Welfare Commission, (3) the*
19 *number of piece-rate units earned and any applicable piece rate if the*
20 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
21 *all deductions made on written orders of the employee may be aggregated*
22 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
23 *period for which the employee is paid, (7) the name of the employee and*
24 *the last four digits of his or her social security number or an employee*
25 *identification number other than a social security number, (8) the name*
26 *and address of the legal entity that is the employer and, if the employer is*
27 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
28 *name and address of the legal entity that secured the services of the*
 employer, and (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. The deductions made from payment of wages shall be
 recorded in ink or other indelible form, properly dated, showing the
 month, day, and year, and a copy of the statement and the record of the
 deductions shall be kept on file by the employer for at least three years at
 the place of employment or at a central location within the State of
 California.

45. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
itemized statement or failed to provide an accurate and complete itemized statement showing the

1 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
2 accurately itemize the correct gross and net wages earned, the correct hours of overtime, and the total
3 missed meal and rest period premiums earned. The paystubs also did not accurately itemize
4 Plaintiff's and similarly situated employees' total hours worked due to Defendants' policies.
5 Plaintiff and similarly situated employees were not able to promptly and easily determine the amount
6 of unpaid wages owed to them from their paystubs alone. Additionally, Plaintiff and similarly
7 situated employees suffered confusion over whether they received all wages owed and were
8 prevented from effectively challenging information on their wage statements.

9 46. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
10 employees have been damaged as stated in the section below entitled "DAMAGES," which is
11 incorporated here to the extent pertinent as if set forth here in full.

12 **SIXTH CAUSE OF ACTION**
13 **WAITING TIME PENALTIES**
14 **(As to all Defendants)**

15 47. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 46 as though fully
16 set forth herein.

17 48. An employer must pay an employee who is terminated all unpaid wages immediately
18 upon termination. *See* Cal. Lab. Code § 201.

19 49. An employer must pay an employee who resigns all unpaid wages within seventy-two
20 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

21 50. Plaintiff and similarly situated employees did not receive all wages, including overtime
22 wages, and meal and rest period premiums at their termination or within the required time after their
23 separation from employment.

24 51. An employer who willfully fails to pay an employee wages in accordance with California
25 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
26 days. *See* Cal. Lab. Code § 203.

27 52. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
28 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
and similarly situated employees worked over ten hours per day. Defendants knew of their obligation to

1 pay Plaintiff and similarly situated individuals for all hours worked, including overtime wages, and meal
2 and rest period premiums because Defendants did not take the steps necessary to have a valid alternative
3 workweek agreement and Plaintiff's and similarly situated employees' time and pay records showed
4 they were working unpaid overtime hours. Such conduct shows Defendants had knowledge of earned,
5 but unpaid wages at the time of separation, yet Defendants still refused to pay the remaining wages
6 owed.

7 53. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
8 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
9 thirty (30) days for Defendants' failure to pay all wages due.

10 **SEVENTH CAUSE OF ACTION**
11 **UNFAIR COMPETITION**
12 **(As to Aquality Water Management, Inc. and DOES 1 to 100)**

13 54. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 53 as though fully
14 set forth herein.

15 55. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act
16 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
17 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See*
18 California Business and Professions ("B&P") Code § 17200.

19 56. Plaintiff and similarly situated employees were not paid all wages owed, including
20 overtime wages, minimum wages, and meal and rest period premiums, during their employment or any
21 time thereafter, in violation of California Labor Code sections 226.7, 510, 512 and 1194, and Wage
22 Order No. 4-2001.

23 57. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
24 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to
25 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

26 58. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the
27 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
28 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code

sections 17203, 17208, violations of California Labor Code sections 226.7, 510, 512, and 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

EIGHTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

59. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 58 as though fully set forth herein.

60. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with him and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.7, 512; IWC Wage Order 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 226.7; IWC Wage Order 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 226.3, 1174, 1198; IWC Wage Order 4, § 7(A) (Failure to Maintain Accurate Records)

61. Plaintiff seeks civil penalties against Defendants as provided in the Labor Code, or, if no civil penalty is provided, default penalties pursuant to Labor Code section 2699(f)(2).

62. Plaintiff seeks these civil penalties from Defendants pursuant to Labor Code sections 2699(a) and 2699.3.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
4. As to the Third Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
5. As to the Fourth Cause of Action:
 - a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);
 - b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);
6. As to the Sixth Cause of Action:
 - a. Penalties as provided for in Labor Code section 1174.5;
7. As to the Eighth Cause of Action:
 - a. For civil penalties as provided for in the Labor Code for each enumerated violation;
 - b. For those Labor Code sections, the violation of which there is no civil penalty

1 provided, the default penalty provided in Labor Code section 2699(f): for any
2 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
3 period; For any subsequent violation, two hundred dollars (\$200) for each
4 aggrieved employee per pay period;

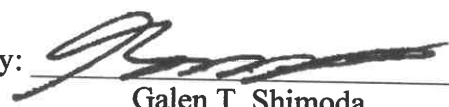
- 5 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
6 d. For any other remedies as allowed by law and/or deemed appropriate by the
7 Court;

8 8. As to All Causes of Action:

- 9 a. For other such relief as this Court may deem just and proper;
10 b. Attorney's fees as provided by law; and
11 c. Interest as provided by law.
12

13 Dated: January 20, 2021

Shimoda Law Corp.

14
15 By: 

16 Galen T. Shimoda
17 Justin P. Rodriguez
18 Brittany V. Berzin
19 Renald Konini
20 Attorneys for Plaintiff
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