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FILED
Superior Court of California
County of Riverside
3/25/2021
E. Escobedo
Electronically Filed

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

JOSE SALDANA, individually, and on
behalf of other members of the general public
similarly situated; THOMAS JOHNS,
individually and on behalf of other aggrieved
employees pursuant to the California Private
Attorneys General Acts;

Plaintiff,

vs.

INTERNATIONAL E-Z UP INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: RIC1902873

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES &
ENFORCEMENT UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT, CALIFORNIA LABOR CODE
§ 2698, ET SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (10) Violation of California Business & Professions Code §§ 17200, et seq.;

(11) Violation of California Labor Code § 2698, et seq. (California Labor Code Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff JOSE SALDANA (“Plaintiff SALDANA”), individually, and on behalf of other members of the general public similarly situated and Plaintiff THOMAS JOHNS (“Plaintiff JOHNS”) (together “Plaintiffs”), individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and allege as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of Riverside. The majority of acts and omissions alleged herein relating to Plaintiffs and the other class members took place in the State of California, including the County of Riverside. At all relevant times, Defendant maintained its headquarters/“nerve center” within the State of California, County of Riverside.

PARTIES

5. Plaintiff JOSE SALDANA is an individual residing in the State of California, County of Riverside.

6. Plaintiff THOMAS JOHNS is an individual residing in the State of California, County of Riverside.

7. Defendant INTERNATIONAL E-Z UP INC., at all times herein mentioned, was and is, upon information and belief, a California corporation and, at all times herein mentioned, an employer whose employees are engaged throughout the State of California, including the County of Riverside.

8. At all relevant times, Defendant INTERNATIONAL E-Z UP INC. was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

9. At all times herein relevant, Defendants INTERNATIONAL E-Z UP INC. and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

10. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiffs who sue said defendants by such fictitious names. Plaintiffs are informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiffs and the other class members as alleged in this Complaint. Plaintiffs will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

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11. Defendant INTERNATIONAL E-Z UP INC. and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

12. Plaintiffs further allege that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other class members and aggrieved employees so as to make each of said Defendants employers liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

13. Plaintiff SALDANA brings this action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under California Code of Civil Procedure section 382.

14. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from May 10, 2015 to final judgment.

15. Plaintiff SALDANA reserves the right to establish subclasses as appropriate.

16. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff SALDANA at this time; however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants’ employment records.

b. Typicality: Plaintiff SALDANA’s claims are typical of all other class members’ as demonstrated herein. Plaintiff SALDANA will fairly and adequately protect the interests of the other class members with whom he has a well-defined community of interest.

c. Adequacy: Plaintiff SALDANA will fairly and adequately protect the

interests of each class member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff SALDANA has no interest that is antagonistic to the other class members. Plaintiff SALDANA's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff SALDANA has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

- d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.
- e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

17. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
- b. Whether Defendants' had a corporate policy and practice of failing to pay their hourly-paid or non-exempt employees within the State of California for all hours worked and missed (short, late, interrupted, and/or missed altogether) meal periods and rest breaks in violation of

California law;

- c. Whether Defendants required Plaintiffs and the other class members to work over eight (8) hours per day, over forty (40) hours per week, and/or over six (6) days per workweek and failed to pay the legally required overtime compensation to Plaintiffs and the other class members;
- d. Whether Defendants deprived Plaintiffs and the other class members of meal and/or rest periods or required Plaintiffs and the other class members to work during meal and/or rest periods without compensation;
- e. Whether Defendants failed to pay minimum wages to Plaintiffs and the other class members for all hours worked;
- f. Whether Defendants failed to pay all wages due to Plaintiffs and the other class members within the required time upon their discharge or resignation;
- g. Whether Defendants failed to timely pay all wages due to Plaintiffs and the other class members during their employment;
- h. Whether Defendants complied with wage reporting as required by the California Labor Code; including, *inter alia*, section 226;
- i. Whether Defendants kept complete and accurate payroll records as required by the California Labor Code, including, *inter alia*, section 1174(d);
- j. Whether Defendants failed to reimburse Plaintiffs and the other class members for necessary business-related expenses and costs;
- k. Whether Defendants' conduct was willful or reckless;
- l. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- m. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and

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n. Whether Plaintiffs and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

PAGA ALLEGATIONS

18. At all times herein set forth, PAGA was applicable to Plaintiff JOHNS' employment by Defendants.

19. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

20. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

21. Plaintiff JOHNS was employed by Defendants and the alleged violations were committed against him during his time of employment and he is, therefore, an aggrieved employee. Plaintiff JOHNS and the other employees are "aggrieved employees" as defined by California Labor Code section 2699(c) in that they are current or former employees of Defendants, and one or more of the alleged violations were committed against them.

22. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff JOHNS, may pursue a civil action arising under PAGA after the following requirements have been met:

a. The aggrieved employee shall give written notice by online submission (hereinafter "Employee's Notice") to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

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b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

23. On December 30, 2020, Plaintiff JOHNS provided written notice by online submission to the LWDA and by certified mail to Defendant of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Therefore, the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies, for violations of California Labor Code sections 201-204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 256, 510, 512, 551, 552, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-1198, 1198.5, 1199, 2751, 2698 *et seq.*, 2800, 2802, 2810.5, 6401, 6403, and the applicable Industrial Welfare Commission Wage Orders have been satisfied.

GENERAL ALLEGATIONS

24. At all relevant times set forth herein, Defendants employed Plaintiffs and other persons as hourly-paid or non-exempt employees within the State of California, including the County of Riverside.

25. Defendants, jointly and severally, employed Plaintiff SALDANA as an hourly-paid, non-exempt employee, from approximately May 2012 to approximately February 2018, in the State of California, County of Riverside.

26. Defendants, jointly and severally, employed Plaintiff JOHNS as an hourly-paid, non-exempt employee, from approximately July 2013 to the present, in the State of California,

County of Riverside

27. Defendants hired Plaintiffs and the other class members, classified them as hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and missed, late, short, and/or interrupted meal periods and/or rest breaks.

28. Defendants had the authority to hire and terminate Plaintiffs, the other class members, and the other allegedly aggrieved employees, to set work rules and conditions governing Plaintiffs' and the other class members' employment, and to supervise their daily employment activities.

29. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs', the other class members', and the other allegedly aggrieved employees' employment for them to be joint employers of Plaintiff and the other class members.

30. Defendants directly hired and paid wages and benefits to Plaintiffs, the other class members, and the other allegedly aggrieved employees.

31. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

32. Plaintiffs, the other class members, and the other allegedly aggrieved employees worked over eight (8) hours in a day, forty (40) hours in a week, and/or over six (6) consecutive days in a workweek during their employment with Defendants.

33. Plaintiffs are informed and believe, and based thereon allege, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees within the State of California. This pattern and practice involved, *inter alia*, failing to pay them for all hours worked earned and for missed, short, late, and/or interrupted meal periods and rest breaks in violation of California law.

34. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive certain wages for overtime compensation and that they were not receiving accurate overtime compensation for all overtime hours worked.

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1 35. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 failed to use the commissions/non-discretionary bonuses/non-discretionary performance pay to
3 calculate the regular rate of pay used to calculate the overtime rate for the payment of overtime
4 wages where Plaintiffs, the other class members, and the other allegedly aggrieved employees
5 earned commissions/non-discretionary bonuses/non-discretionary performance pay and overtime
6 wages in the same workweek.

7 36. Plaintiffs are informed and believe, and based thereon allege, that Defendants
8 failed to provide Plaintiffs, the other class members, and the other allegedly aggrieved
9 employees all required rest and meal periods during the relevant time period as required under
10 the Industrial Welfare Commission Wage Orders and thus they are entitled to any and all
11 applicable premium wages. Defendants' failure included, *inter alia*, failing to provide
12 uninterrupted ten (10) minute rest periods and timely, uninterrupted thirty (30) minute meal
13 periods to Plaintiffs, the other class members, and the other allegedly aggrieved employees.
14 Plaintiffs, the other class members, and the other allegedly aggrieved employees were required
15 to perform work during meal periods and rest periods.

16 37. Plaintiffs are informed and believe, and based thereon allege, that Defendants
17 failed to relieve Plaintiffs, the other class members, and the other allegedly aggrieved
18 employees of all duties, failed to relinquish control over Plaintiffs', the other class members',
19 and the other allegedly aggrieved employees' activities, failed to permit Plaintiffs, the other
20 class members, and the other allegedly aggrieved employees a reasonable opportunity to take,
21 and impeded or discouraged them from taking thirty (30) minute uninterrupted meal breaks no
22 later than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to
23 take second thirty (30) minute uninterrupted meal breaks no later than their tenth hour of work
24 for shifts lasting more than ten (10) hours

25 38. Plaintiffs re informed and believe, and based thereon allege, that Defendants
26 knew or should have known that Plaintiffs, the other class members, and the other allegedly
27 aggrieved employees were entitled to receive all meal periods or payment of one additional
28 hour of pay at Plaintiffs', the other class member's, and the other allegedly aggrieved

employees' regular rate of pay when a meal period was missed, short, late, and/or interrupted, and they did not receive all meal periods or payment of one additional hour of pay at Plaintiffs', the other class member's, and the other allegedly aggrieved employees' regular rate of pay when a meal period was missed, short, late, and/or interrupted.

39. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive all rest periods or payment of one additional hour of pay at Plaintiffs', the other class member's, and the other allegedly aggrieved employees' regular rate of pay when a rest period was missed, short, late, and/or interrupted, and they did not receive all rest periods or payment of one additional hour of pay at Plaintiffs', the other class members', and the other allegedly aggrieved employees' regular rate of pay when a rest period was missed, short, late, and/or interrupted.

40. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive at least minimum wages for compensation and that they were not receiving at least minimum wages for all hours worked.

41. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive all wages owed to them upon discharge or resignation, including earned but unpaid overtime and minimum wages and meal and rest period premiums, and they did not, in fact, receive all such wages owed to them at the time of their discharge or resignation.

42. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive all wages owed to them during their employment. Plaintiffs, the other class members, and the other allegedly aggrieved employees did not receive payment of all wages, including overtime and minimum wages and meal and rest period premiums, within any time permissible under California Labor Code section 204.

1 43. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 knew or should have known that Plaintiffs, the other class members, and the other allegedly
3 aggrieved employees were entitled to receive complete and accurate wage statements in
4 accordance with California law, but, in fact, they did not receive complete and accurate wage
5 statements from Defendants. The deficiencies included, *inter alia*, the failure to include the
6 actual number of hours worked by Plaintiffs, the other class members, and the other allegedly
7 aggrieved employees, including work to be performed off-the-clock.

8 44. Plaintiffs are informed and believe, and based thereon allege, that Defendants
9 knew or should have known that Defendants had to keep complete and accurate payroll records
10 for Plaintiffs, the other class members, and the allegedly aggrieved employees in accordance
11 with California law, but, in fact, did not keep complete and accurate payroll records.

12 45. Plaintiffs are informed and believe, and based thereon allege, that Defendants
13 knew or should have known that Plaintiffs, the other class members, and the other allegedly
14 aggrieved employees were entitled to reimbursement for necessary business-related expenses.

15 46. Plaintiffs are informed and believe, and based thereon allege, that Defendants
16 knew or should have known that they had a duty to compensate Plaintiffs, the other class
17 members, and the other allegedly aggrieved employees pursuant to California law, and that
18 Defendants had the financial ability to pay such compensation, but willfully, knowingly, and
19 intentionally failed to do so, and falsely represented to Plaintiffs, the other class members, and
20 the other allegedly aggrieved employees that they were properly denied wages, all in order to
21 increase Defendants' profits.

22 47. During the relevant time period, Defendants failed to pay overtime wages to
23 Plaintiffs, the other class members, and the other allegedly aggrieved employees for all
24 overtime hours worked. Plaintiffs, the other class members, and the other allegedly aggrieved
25 employees did not receive compensation at one-and-one-half the regular rate of pay for all
26 hours spent performing job duties in excess of eight (8) hours per day, forty (40) hours per
27 week, and/or for the first eight (8) hours worked on the seventh day of work in a workweek.

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1 48. During the relevant time period, Defendants failed to use the commissions/non-
2 discretionary bonuses/non-discretionary performance pay to calculate the regular rate of pay
3 used to calculate the overtime rate for the payment of overtime wages where Plaintiffs, the other
4 class members, and the other allegedly aggrieved employees earned shift differential
5 pay/commissions/non-discretionary bonuses/non-discretionary performance pay and overtime
6 wages in the same workweek.

7 49. During the relevant time period, Defendants failed to provide all requisite
8 uninterrupted meal and rest periods to Plaintiffs, the other class members, and the other
9 allegedly aggrieved employees.

10 50. During the relevant time period, Defendants failed to pay Plaintiffs, the other
11 class members, and the other allegedly aggrieved employees at least minimum wages for all
12 hours worked.

13 51. During the relevant time period, Defendants failed to pay Plaintiffs, the other
14 class members, and the other allegedly aggrieved employees all wages owed to them upon
15 discharge or resignation.

16 52. During the relevant time period, Defendants failed to pay Plaintiffs, the other
17 class members, and the other allegedly aggrieved employees all wages within any time
18 permissible under California law, including, *inter alia*, California Labor Code section 204.

19 53. During the relevant time period, Defendants failed to provide complete or
20 accurate wage statements to Plaintiffs, the other class members, and the other allegedly
21 aggrieved employees.

22 54. During the relevant time period, Defendants failed to keep complete or accurate
23 payroll records for Plaintiffs, the other class members, and the other allegedly aggrieved
24 employees.

25 55. During the relevant time period, Defendants failed to reimburse Plaintiffs, the
26 other class members, and the other allegedly aggrieved employees for all necessary business-
27 related expenses and costs.

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56. During the relevant time period, Defendants failed to properly compensate Plaintiffs, the other class members, and the other allegedly aggrieved employees pursuant to California law in order to increase Defendants' profits.

57. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

58. Plaintiff SALDANA incorporates by reference the allegations contained in Paragraphs 1 through 57, and each and every part thereof with the same force and effect as though fully set forth herein.

59. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

60. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff SALDANA and the other class members employed by Defendants, and working more than eight (8) hours in a day, more than forty (40) hours in a week, and/or more than six (6) consecutive days in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day and up to and including twelve (12) hours, more than forty (40) hours in a week, and/or the first eight (8) hours worked on the seventh day of work in a workweek.

61. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff SALDANA and the other class members overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

62. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day, in excess of forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a workweek.

63. During the relevant time period, Plaintiff SALDANA and the other class members worked in excess of eight (8) hours in a day, in excess of forty (40) hours in a week, and/or in excess of six (6) consecutive days in a workweek.

64. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff SALDANA and the other class members, including failing to properly calculate the regular rate of pay and overtime rate of pay. Plaintiff SALDANA and the other class members did not receive overtime compensation at one-and-one-half times the regular rate of pay for all hours spent performing job duties in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day.

65. Defendants' failure to pay Plaintiff SALDANA and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

66. Pursuant to California Labor Code section 1194, Plaintiff SALDANA and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

67. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 66, and each and every part thereof with the same force and effect as though fully set forth herein.

68. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff SALDANA's and the other class members' employment by Defendants.

69. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

70. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

71. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

72. During the relevant time period, Plaintiff SALDANA and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

73. During the relevant time period, Plaintiff SALDANA and the other class members who were scheduled to work for a period of time in excess of six (6) hours were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

74. During the relevant time period, Plaintiff SALDANA and other class members' meal periods were missed, shortened, late, and/or were interrupted because Defendants required them to perform and complete work duties, even when it resulted in missed, shortened, late, or interrupted meal periods. Defendants interrupted Plaintiff SALDANA and the other class members during purported meal periods with business-related inquiries, instructions for tasks, and/or to require them to return to work before a full thirty (30) minutes elapsed to complete or begin tasks.

75. As a result, Defendants failed to relieve Plaintiff SALDANA and the other class members of all duties, failed to relinquish control over Plaintiff SALDANA and the other class members' activities, failed to permit Plaintiff SALDANA and the other class members a reasonable opportunity to take, and impeded or discouraged them from taking thirty (30) minute uninterrupted meal periods no later than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted meal periods no later than their tenth hour of work for shifts lasting more than ten (10) hours.

76. During the relevant time period, Defendants intentionally and willfully required Plaintiff SALDANA and the other class members to work during meal periods and failed to compensate Plaintiff SALDANA and the other class members the full meal period premium for work performed during meal periods.

77. During the relevant time period, Defendants failed to pay Plaintiff SALDANA and the other class members the full meal period premium due pursuant to California Labor Code section 226.7.

78. Defendants' conduct violates applicable IWC Wage Order and California Labor Code sections 226.7 and 512(a).

79. Pursuant to applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff SALDANA and the other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

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THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

80. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 79, and each and every part thereof with the same force and effect as though fully set forth herein.

81. At all times herein set forth, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff SALDANA's and the other class members' employment by Defendants.

82. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

83. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

84. During the relevant time period, Defendants required Plaintiff SALDANA and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

85. During the relevant time period, Defendants willfully required Plaintiff SALDANA and the other class members to work during rest periods and failed to pay Plaintiff SALDANA and the other class members the full rest period premium for work performed during rest periods.

86. During the relevant time period, Defendants failed to pay Plaintiff SALDANA and the other class members the full rest period premium due pursuant to California Labor Code section 226.7

87. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

88. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(c), Plaintiff SALDANA and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

89. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 88, and each and every part thereof with the same force and effect as though fully set forth herein.

90. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

91. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194, 1197, and 1197.1. Defendants' failure to pay minimum wages included, *inter alia*, Defendants' effective payment of zero dollars per hour for hours Plaintiff SALDANA and the other class members worked off-the-clock performing work duties.

92. Defendants' failure to pay Plaintiff SALDANA and the other class members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections Plaintiff SALDANA and the other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

93. Pursuant to California Labor Code section 1197.1, Plaintiff SALDANA and the other class members are entitled to recover a penalty of \$100.00 for the initial failure to timely

1 pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
2 employee minimum wages.

3 94. Pursuant to California Labor Code section 1194.2, Plaintiff SALDANA and the
4 other class members are entitled to recover liquidated damages in an amount equal to the
5 wages unlawfully unpaid and interest thereon.

6 **FIFTH CAUSE OF ACTION**

7 **(Violation of California Labor Code §§ 201 and 202)**

8 **(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)**

9 95. Plaintiff SALDANA incorporates by reference the allegations contained in
10 paragraphs 1 through 94, and each and every part thereof with the same force and effect as
11 though fully set forth herein.

12 96. At all relevant times herein set forth, California Labor Code sections 201 and
13 202 provide that if an employer discharges an employee, the wages earned and unpaid at the
14 time of discharge are due and payable immediately, and if an employee quits his or her
15 employment, his or her wages shall become due and payable not later than seventy-two (72)
16 hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her
17 intention to quit, in which case the employee is entitled to his or her wages at the time of
18 quitting.

19 97. During the relevant time period, Defendants intentionally and willfully failed to
20 pay Plaintiff SALDANA and the other class members who are no longer employed by
21 Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving
22 Defendants' employ. Plaintiff SALDANA and other class members were not paid at the time
23 of their discharge wages earned and unpaid throughout their employment, including but not
24 limited to, minimum wages for time worked off-the-clock to perform work duties and for meal
25 and rest period premium payments.

26 98. Defendants' failure to pay Plaintiff SALDANA and the other class members
27 who are no longer employed by Defendants' their wages, earned and unpaid, within seventy-
28 two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code

sections 201 and 202.

99. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

100. Plaintiff SALDANA and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 204)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

101. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 100, and each and every part thereof with the same force and effect as though fully set forth herein.

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

103. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

104. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

105. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff SALDANA and the other class members all wages due to them, within any time

period permissible under California Labor Code section 204.

106. Plaintiff SALDANA and the other class members are entitled to recover all remedies available for violations of California Labor Code section 204.

SEVENTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

107. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 106, and each and every part thereof with the same force and effect as though fully set forth herein.

108. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is 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 payments 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 or a 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.

109. Defendants have intentionally and willfully failed to provide Plaintiff SALDANA and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the total number of hours worked by Plaintiff SALDANA and the other class members.

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110. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff SALDANA and the other class members have suffered injury and damage to their statutorily-protected rights.

111. More specifically, Plaintiff SALDANA and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a). Because Plaintiff SALDANA's and the other class members' wage statements did not reflect the accurate number of hours worked, Plaintiff SALDANA and the other class members were unable to determine the total amount they were owed, and were unable to verify they were paid the proper amount. In order to determine how much Plaintiff SALDANA and the other class members should have been paid, Plaintiff SALDANA and the other class members would have had to engage in discovery and mathematical computations in order to reconstruct the missing information

112. Plaintiff SALDANA and the other class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

113. Plaintiff SALDANA and the other class members are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h).

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 1174(d))

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

114. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 113, and each and every part thereof with the same force and effect as though fully set forth herein.

115. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are

1 employed, payroll records showing the hours worked daily by and the wages paid to, and the
2 number of piece-rate units earned by and any applicable piece rate paid to, employees
3 employed at the respective plants or establishments. These records shall be kept in accordance
4 with rules established for this purpose by the commission, but in any case shall be kept on file
5 for not less than two years.

6 116. Defendants have intentionally and willfully failed to keep accurate and complete
7 payroll records showing the hours worked daily and the wages paid, to Plaintiff SALDANA
8 and the other class members.

9 117. As a result of Defendants' violation of California Labor Code section 1174(d),
10 Plaintiff SALDANA and the other class members have suffered injury and damage to their
11 statutorily-protected rights.

12 118. More specifically, Plaintiff SALDANA and the other class members have been
13 injured by Defendants' intentional and willful violation of California Labor Code section
14 1174(d) because they were denied both their legal right and protected interest, in having
15 available, accurate and complete payroll records pursuant to California Labor Code section
16 1174(d).

17 **NINTH CAUSE OF ACTION**

18 **(Violation of California Labor Code §§ 2800 and 2802)**

19 **(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)**

20 119. Plaintiff SALDANA incorporates by reference the allegations contained in
21 paragraphs 1 through 118, and each and every part thereof with the same force and effect as
22 though fully set forth herein.

23 120. Pursuant to California Labor Code sections 2800 and 2802, an employer must
24 reimburse its employee for all necessary expenditures incurred by the employee in direct
25 consequence of the discharge of his or her job duties or in direct consequence of his or her
26 obedience to the directions of the employer.

27 121. Plaintiff SALDANA and the other class members incurred necessary business-
28 related expenses and costs that were not fully reimbursed by Defendants. For example, the

costs of necessary personal protective equipment (such as, safety glasses, ear plugs, back braces, and gloves), and the costs of the use of personal cell phones for business-related purposes.

122. Defendants have intentionally and willfully failed to reimburse Plaintiff SALDANA and the other class members for all necessary business-related expenses and costs.

123. Plaintiff SALDANA and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, et seq.)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

124. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 123, and each and every part thereof with the same force and effect as though fully set forth herein.

125. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff SALDANA, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff SALDANA seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

126. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, et seq.

127. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff SALDANA and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff SALDANA and the other class members, to work

1 through their meal and rest periods without paying them proper compensation violate
2 California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing
3 to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1.
4 Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the
5 other class members violate California Labor Code sections 201, 202 and 204. Defendants
6 also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

7 128. As a result of the herein described violations of California law, Defendants
8 unlawfully gained an unfair advantage over other businesses.

9 129. Plaintiff SALDANA and the other class members have been personally injured
10 by Defendants' unlawful business acts and practices as alleged herein, including but not
11 necessarily limited to the loss of money and/or property.

12 130. Pursuant to California Business & Professions Code sections 17200, et seq.,
13 Plaintiff SALDANA and the other class members are entitled to restitution of the wages
14 withheld and retained by Defendants during a period that commences four years preceding the
15 filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil
16 procedure section 1021.5 and other applicable laws; and an award of costs.

17 **ELEVENTH CAUSE OF ACTION**

18 **(Violation of California Labor Code § 2698, et seq.)**

19 **(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)**

20 131. Plaintiff JOHNS incorporates by reference the allegations contained in
21 paragraphs 1 through 130, and each and every part thereof with the same force and effect as
22 though fully set forth herein.

23 132. PAGA expressly establishes that any provision of the California Labor Code
24 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
25 departments, divisions, commissions, boards, agencies or employees for a violation of the
26 California Labor Code, may be recovered through a civil action brought by an aggrieved
27 employee on behalf of himself or herself, and other current or former employees.

28 ///

133. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

134. Plaintiff JOHNS and the other hourly-paid or non-exempt employees, are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

Failure to Pay Overtime

135. Defendants’ failure to pay overtime in violation of the Wage Orders and California Labor Code sections 510 and 1198, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 510 and 1198. Defendants’ failure to pay all minimum and overtime wages due to Plaintiff and the other aggrieved employees, in violation of Labor Code §§ 206, 218.5, 218.6, 221, 510, 551, 552, 558, 558.1, 1102.5, 1182.12, 1194, 1194.2, 1197, 1198, 1199, 2751, and 2810.5.

Failing to Provide Meal Periods

136. Defendants’ failure to provide legally required meal periods in violation of the Wage Orders and California Labor Code sections 226.7 and 512(a), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

Failure to Provide Rest Periods

137. Defendants’ failure to provide legally required rest periods in violation of the Wage Orders and California Labor Code section 226.7, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226.7.

Failure to Pay Minimum Wages

138. Defendants’ failure to pay minimum wages in violation of the Wage Orders and California Labor Code sections 1194, 1197 and 1197.1, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 1194, 1197, and 1197.1.

Defendants' failure to pay all minimum and overtime wages due to Plaintiff JOHNS and the other aggrieved employees, in violation of Labor Code §§ 206, 218.5, 218.6, 221, 510, 551, 552, 558, 558.1, 1102.5, 1182.12, 1194, 1194.2, 1197, 1198, 1199, 2751, and 2810.5.

Failure to Timely Pay Wages Upon Termination

139. Defendants' failure to timely pay wages upon termination in violation of California Labor Code sections 201 and 202, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

140. Defendants' failure to timely pay wages during employment in violation of California Labor Code section 204, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Compliant Wage Statements

141. Defendants' failure to provide compliant wage statements in violation of California Labor Code section 226(a), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete or Accurate Payroll Records

142. Defendants' failure to keep complete or accurate payroll records in violation of California Labor Code section 1174(d), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business Expenses

143. Defendants' failure to reimburse all necessary business-related expenses and costs in violation of California Labor Code sections 2800 and 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

144. Furthermore, Plaintiff JOHNS and the allegedly aggrieved employees made complaints to Defendants regarding the foregoing violations of the Labor Code and were retaliated against for doing so in violation of Labor Code 1102.5.

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1 145. Pursuant to California Labor Code section 2699, Plaintiff JOHNS, individually,
2 and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants
3 and each of them, business expenses, unpaid wages, and/or untimely wages according to proof,
4 interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as
5 all penalties against Defendants, and each of them, including but not limited to:

- 6 a. Penalties under California Labor Code section 2699 in the amount of a
7 hundred dollars (\$100) for each aggrieved employee per pay period for the
8 initial violation, and two hundred dollars (\$200) for each aggrieved
9 employee per pay period for each subsequent violation;
10 b. Penalties under California Code of Regulations Title 8 section 11010, *et*
11 *seq.* in the amount of fifty dollars (\$50) for each aggrieved employee per
12 pay period for the initial violation, and one hundred dollars (\$100) for
13 each aggrieved employee per pay period for each subsequent violation;
14 c. Penalties under California Labor Code section 210 in addition to, and
15 entirely independent and apart from, any other penalty provided in the
16 California Labor Code in the amount of a hundred dollars (\$100) for each
17 aggrieved employee per pay period for the initial violation, and two
18 hundred dollars (\$200) for each aggrieved employee per pay period for
19 each subsequent violation; and
20 d. Any and all additional penalties and sums as provided by the California
21 Labor Code and/or other statutes.

22 146. Pursuant to California Labor Code section 2699(i), civil penalties recovered by
23 aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor
24 and Workforce Development Agency for the enforcement of labor laws and education of
25 employers and employees about their rights and responsibilities and twenty-five percent (25%)
26 to the aggrieved employees.

27 147. Further, Plaintiff JOHNS is entitled to seek and recover reasonable attorneys'
28 fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other

1 applicable statute.

2 **DEMAND FOR JURY TRIAL**

3 Plaintiff SALDANA, individually, and on behalf of other members of the general
4 public similarly situated, and Plaintiff JOHNS, individually, and on behalf of other aggrieved
5 employees pursuant to the California Private Attorneys General Act, requests a trial by jury.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff SALDANA, individually, and on behalf of other members of
8 the general public similarly situated, and Plaintiff JOHNS, individually, and on behalf of other
9 aggrieved employees pursuant to the California Private Attorneys General Act, prays for relief
10 and judgment against Defendants, jointly and severally, as follows:

11 **Class Certification**

- 12 1. That this action be certified as a class action with respect to the first ten causes
13 of action;
- 14 2. That Plaintiff SALDANA be appointed as the representative of the Class;
- 15 3. That counsel for Plaintiffs be appointed as Class Counsel; and
- 16 4. That Defendants provide to Class Counsel immediately the names and most
17 current/last known contact information (address, e-mail and telephone numbers) of all class
18 members.

19 **As to the First Cause of Action**

- 20 5. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
22 all overtime wages due to Plaintiff SALDANA and the other class members;
- 23 6. For general unpaid wages at overtime wage rates and such general and special
24 damages as may be appropriate;
- 25 7. For pre-judgment interest on any unpaid overtime compensation commencing
26 from the date such amounts were due;
- 27 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
28 California Labor Code section 1194; and

9. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiff SALDANA and the other class members;

11. That the Court make an award to Plaintiff SALDANA and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to California Labor Code section 226.7(c);

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

16. For such other and further relief as the Court may deem just and proper.

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff SALDANA and the other class members;

18. That the Court make an award to Plaintiff SALDANA and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(c);

21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

22. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff SALDANA and the other class members;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff SALDANA and the other class members in the amount as may be established according to proof at trial;

26. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

28. For liquidated damages pursuant to California Labor Code section 1194.2; and

29. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff SALDANA and the other class members no longer employed by Defendants;

31. For all actual, consequential, and incidental losses and damages, according to proof;

32. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff SALDANA and the other class members who have left Defendants' employ;

33. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

34. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiff SALDANA and the other class members;

36. For all actual, consequential, and incidental losses and damages, according to proof;

37. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff SALDANA and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For statutory penalties pursuant to California Labor Code section 226(e);

42. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and

43. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiff SALDANA and the other class members as required by California Labor Code section 1174(d);

45. For actual, consequential and incidental losses and damages, according to proof;

46. For statutory penalties pursuant to California Labor Code section 1174.5; and

47. For such other and further relief as the Court may deem just and proper.

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As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff SALDANA and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

49. For actual, consequential and incidental losses and damages, according to proof;

50. For the imposition of civil penalties and/or statutory penalties;

51. For reasonable attorneys' fees and costs of suit incurred herein; and

52. For such other and further relief as the Court may deem just and proper.

As to the Tenth Cause of Action

53. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff SALDANA and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff SALDANA and the other class members, failing to pay at least minimum wages to Plaintiff SALDANA and the other class members, failing to pay Plaintiff SALDANA's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

54. For restitution of unpaid wages to Plaintiff SALDANA and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

55. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, et seq.;

56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

57. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, et seq.; and

1 58. For such other and further relief as the Court may deem just and proper.

2 **As to the Eleventh Cause of Action**

3 59. For civil penalties and wages pursuant to California Labor Code sections
4 2699(a), (f), and (g) plus costs and attorneys' fees for violation of California Labor Code
5 sections 201-204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 256, 510, 512, 551,
6 552, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-1198, 1198.5, 1199, 2751,
7 2698 *et seq.*, 2800, 2802, 2810.5, 6401, 6403 and the applicable Industrial Welfare
8 Commission Wage Orders; and

9 60. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 Dated: March 25, 2021

LAWYERS for JUSTICE, PC

12
13 By: 
14 Edwin Aiwanian
15 Attorneys for Plaintiffs
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 410 West Arden Avenue, Suite 203, Glendale, California 91203.

On March 25, 2021, I served the foregoing document(s) described as:

- **FIRST AMENDED COMPLAINT ACTION COMPLAINT FOR DAMAGES & ENFORCEMENT UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE § 2698, ET SEQ.** on interested parties as follows:

Brent M. Giddens (bgiddens@cdflaborlaw.com)

Ashley A. Halberda (ahalberda@cdflaborlaw.com)

Brian E. Cole II (bcole@cdflaborlaw.com)

CDF LABOR LAW LLP

18300 Von Karman Avenue, Suite 800

Irvine, California 92612

Attorneys for Defendant INTERNATIONAL E-Z UP INC.

[X] BY E-MAIL

The above-referenced document was transmitted to the person(s) at the e-mail addresses listed herein at their most recent known e-mail address or e-mail of record in this action. I did not receive, within reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 25, 2021, at Glendale, California.

Sarin Yeranossian