

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Dennis Landin

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Attorney for Plaintiff,
JOSE MAURICIO RIVERA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

JOSE MAURICIO RIVERA, an individual,

Plaintiff,

v.

HENEAN TRUCKING INC., a California
corporation; and DOES 1 through 20, inclusive,

Defendants.

Case No. **21STCV08923**

COMPLAINT FOR DAMAGES FOR:

- 1. FAILURE TO PAY WAGES (CAL. LABOR CODE §§201, 1194);**
- 2. FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);**
- 3. FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§510, 1194);**
- 4. FAILURE TO PROVIDE REST PERIODS (CAL. LABOR CODE §226.7);**
- 5. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);**
- 6. WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);**
- 7. PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ);**
- 8. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS (CAL. LABOR CODE §1198.5); AND**
- 9. UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.);**

DEMAND OVER \$25,000

1 [DEMAND FOR JURY TRIAL]
2
3
4

5 COMES NOW PLAINTIFF, JOSE MAURICIO RIVERA, and for causes of action against
6 the Defendants and each of them, alleges as follows:
7

8 **JURISDICTION**

9 1. This Court is the proper court, and this action is properly filed in Los Angeles County,
10 because Defendants' obligations and liability arise therein, because Defendants maintain offices and
11 transact business within Los Angeles County, and because the work that is the subject of this action was
12 performed by Plaintiff in Los Angeles County.
13

14 **THE PARTIES**

15 2. Plaintiff, JOSE MAURICIO RIVERA, is and at all times relevant hereto was a resident of
16 the County of Los Angeles, State of California.

17 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
18 hereto, Defendant HENEAN TRUCKING INC. (hereinafter referred to as "Employer") was and is a
19 California corporation doing business at 14000 Gracebee Ave., in the County of Los Angeles, State of
20 California.

21 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
22 hereto, Employer owned and operated a private freight transportation company.

23 5. At all times relevant herein, Employer and DOES 1-20 were Plaintiff's employers, joint
24 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
25 Commission Order No. 9-2001 and are each any "employer or other person acting on behalf of an
26 employer" as such term is used in Labor Code section 558, and liable to Plaintiff on that basis.

27 6. The true names and capacities, whether individual, corporate, associate, or otherwise, of
28 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore

1 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
2 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
3 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
4 Defendants is responsible for the wrongful acts alleged herein and is therefore liable to Plaintiff as alleged
5 hereinafter.

6 7. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
7 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,
8 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
9 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part
10 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,
11 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

12 8. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
13 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit
14 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
15 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code
16 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and
17 each of them, including those defendants named as DOES 1-20, and each of them, formed and executed
18 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,
19 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and
20 actually causing Plaintiff harm.

21 9. Whenever and wherever reference is made in this complaint to any act or failure to act by
22 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
23 and/or failures to act by each Defendant acting individually, jointly and severally.

24
25 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

26 10. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
27 of interest and ownership between Employer and DOES 1-20 that the individuality and separateness of
28 defendants have ceased to exist.

1 11. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
2 purported corporate existence, Employer and DOES 1-20 are, in reality, one and the same, including, but
3 not limited to because:

4 a. Employer is completely dominated and controlled by one another and DOES 1-20,
5 who personally committed the frauds and violated the laws as set forth in this complaint, and who have
6 hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or accomplish
7 some other wrongful or inequitable purpose.

8 b. Employer and DOES 1-20 derive actual and significant monetary benefits by and
9 through one another's unlawful conduct, and by using one another as the funding source for their own
10 personal expenditures.

11 c. Employer and DOES 1-20, while really one and the same, were segregated to
12 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
13 accomplishing some other wrongful or inequitable purpose.

14 d. Employer does not comply with all requisite corporate formalities to maintain a
15 legal and separate corporate existence.

16 e. The business affairs of Employer and DOES 1-20 are, and at all times relevant
17 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
18 inextricable confusion. Employer is, and at all times relevant hereto was, used by one another and DOES
19 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and were, the
20 alter ego of one another and DOES 1-20. The recognition of the separate existence of Defendants would
21 not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff
22 for violations of the Government Code and other statutory violations. The corporate existence of
23 Employer and DOES 1-20 should be disregarded in equity and for the ends of justice because such
24 disregard is necessary to avoid fraud and injustice to Plaintiff herein.

25 12. Accordingly, Employer constitutes the alter ego of one another and DOES 1-20, and the
26 fiction of their separate corporate existence must be disregarded.

27 13. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
28 thereon alleges that Employer and DOES 1-20 are Plaintiff's joint employers by virtue of a joint

1 enterprise, and that Plaintiff was an employee of Employer and DOES 1-20. Plaintiff performed services
2 for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants
3 shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which
4 Defendants' business was and is conducted.

5 14. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
6 between DOES 1-20, Employer, or any of them, (1) there is an express or implied agreement of
7 assumption pursuant to which Employer and/or DOES 1-20 agreed to be liable for the debts of the other
8 Defendants, (2) the transaction between Employer and/or DOES 1-20 and the other Defendants amounts
9 to a consolidation or merger of the two corporations, (3) Employer and/or DOES 1-20 are a mere
10 continuation of the other Defendants, or (4) the transfer of assets to Employer and/or DOES 1-20 is for
11 the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employer and/or DOES
12 1-20 are the successors of one or more of the other Defendants and are liable on that basis.

13 14 **FACTUAL ALLEGATIONS**

15 15. On or about February 1, 2019, Employers hired Plaintiff to work as a mechanic. Plaintiff
16 was a full-time, non-exempt employee, and performed all of Plaintiff's job duties satisfactorily before
17 Plaintiff was wrongfully terminated on or about May 1, 2020.

18 **Misclassification as Exempt**

19 16. Even though Plaintiff was a laborer, Defendants misclassified Plaintiff as exempt, and
20 paid Plaintiff only a "salary," some via payroll check with deductions and taxes withheld.

21 17. Defendants failed and refused to itemize these deductions or list the amount of taxes
22 withheld, but instead notified Plaintiff that they were withheld.

23 18. At all times relevant hereto, Plaintiff was not exempt pursuant to Labor Code §515,
24 including because:

25 a. Plaintiff's duties and responsibilities did not involve the management of the
26 enterprise in which he was employed or of a customarily recognized department or subdivision thereof;

27 b. Plaintiff is and was not licensed or certified by the State of California nor was
28 Plaintiff primarily engaged in the practice of one of the following recognized professions: law, medicine,

dentistry, optometry, architecture, engineering, teaching, or accounting, nor was Plaintiff primarily engaged in an occupation commonly recognized as a learned or artistic profession as such term is defined by Wage Order 5;

c. Plaintiff's duties and responsibilities did not involve either the performance of office or non-manual work directly related to management policies or general business operations of his employer or his employer's customers, or the performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein;

d. Plaintiff did not have the authority to hire or fire other employees, nor were Plaintiff's suggestions and recommendations as to the advancement and promotion or any other change of status of other employees given any weight;

e. Plaintiff did not customarily and regularly exercise discretion and independent judgment in performing his work duties;

f. Plaintiff did not perform under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge;

g. Plaintiff did not perform under only general supervision special assignments and tasks;

h. Plaintiff did not spend more than one-half of his work time engaged in exempt work; and

i. Plaintiff did not earn a monthly salary equivalent to no less than two times the statement minimum wage for full-time employment.

19. Because Employers misclassified Plaintiff as exempt, Plaintiff was only paid a flat weekly salary of \$1,200.00, rather than for each hour worked. Pursuant to Labor Code §515(d)(2), salary is deemed to provide compensation only for the employee's regular, non-overtime hours, notwithstanding any private agreement to the contrary. As a result, Plaintiff was paid no wages at all, for hours beyond 8 in a day, or 40 in a week. Based upon Plaintiff's salary, pursuant to Labor Code §515(d)(1), Plaintiff's hourly wage rate is 1/40th of the Plaintiff's weekly salary, or \$30.00/hour.

1 20. Because Employers misclassified Plaintiff as exempt, at no time during Plaintiff's
2 employment was Plaintiff paid for all hours worked or overtime premiums, nor was Plaintiff provided
3 with uninterrupted 10-minute rest periods as required by law, or with itemized wage statements as
4 required by law.

5 21. Between February 1, 2019 and May 1, 2020, Plaintiff's hourly wage rate was \$30.00 per
6 hour. During this time period, Plaintiff's fixed schedule was six days per week, Monday through Friday,
7 for approximately 8.5 hours per day, and Saturday for 5.5 hours.

8 22. Plaintiff worked approximately 8 hours each week, for which Plaintiff received no wages
9 at all, not Plaintiff's hourly wage rate, or even the requisite minimum wage.

10 23. Plaintiff worked approximately 8 overtime hours each week, but was not paid for these
11 hours at all.

12 24. Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of
13 Plaintiff's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion
14 thereof.

15
16 **FIRST CAUSE OF ACTION**
17 **FOR FAILURE TO PAY WAGES DUE**
18 **LABOR CODE §§201, 1182.12, 1194, 1194.2**
19 **AGAINST ALL DEFENDANTS**

20 25. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
21 though set forth in full herein.

22 26. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
23 required by 8 Code of Regulations §11090, as set forth hereinabove. As alleged herein, Defendants
24 routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

25 27. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
26 Code of Regulations §11090, and Industrial Welfare Commission Order No. 9-2001.

1 28. Plaintiff has been deprived of Plaintiff's rightfully earned compensation as a direct and
2 proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is entitled to
3 recover such amounts, plus interest thereon, attorneys' fees and costs.

4 29. Labor Code §558(a) provides that any person acting on behalf of an employer who
5 violates, or causes to be violated, any statute or provision regulating hours and days of work in any order
6 of the Industrial Welfare Commission pay a civil penalty in the amount of \$50.00 for each underpaid
7 employee for each pay period in which the employee was underpaid in addition to an amount sufficient
8 to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting
9 on behalf of an employer is liable in the amount of \$100.00 for each underpaid employee for each pay
10 period for which the employee was underpaid in addition to an amount sufficient to recover the underpaid
11 wages.

12 30. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated
13 above based upon Defendants' underpayment of minimum and overtime wages. Within the one year
14 immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code
15 §558 on 9 pay periods, the first of which Defendants are penalized \$50.00, and the remainder of which
16 Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties of \$850.00.

17
18 **SECOND CAUSE OF ACTION**
19 **FOR FAILURE TO PAY MINIMUM WAGES**
20 **LABOR CODE §§1182.12, 1194, 1194.2, 1197**
21 **AGAINST ALL DEFENDANTS**

22 31. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
23 though set forth in full herein.

24 32. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed by law is
25 unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid
26 hours exceeded the minimum wage. Under California law, Plaintiff is entitled to at least the minimum
27 wage for every hour worked.

28 33. The historical minimum wage requirements in California are as follows:

Effective	26+ employees	1-25 employees
1/1/20	\$13.00	\$12.00
1/1/19	\$12.00	\$11.00
1/1/18	\$11.00	\$10.50
1/1/17	\$10.50	\$10.00

Effective	New wage	Old Wage
1/1/16	\$10.00	\$9.00
7/1/14	\$9.00	\$8.00
1/1/08	\$8.00	\$7.50
1/1/07	\$7.50	\$6.75

34. At all relevant times, Employers employed 26 or more employees.

35. At all relevant times, Employers failed and refused to pay Plaintiff the legal minimum wage in the State of California, as set forth in Labor Code §1182.12.

36. Defendants failed to pay Plaintiff the requisite minimum wage in each of the following ways in the four years immediately preceding the filing of this complaint:

37. From February 1, 2019 to December 31, 2019, Plaintiff worked approximately 8 hours per week without getting paid anything. Therefore Plaintiff is owed \$4,608.00 calculated at 8 hours per week for 48 weeks, at \$12.00 per hour.

38. From January 1, 2020 to May 1, 2020, Plaintiff worked approximately 8 hours per week without getting paid anything. Therefore Plaintiff is owed \$1,872.00 calculated at 8 hours per week for 18 weeks, at \$13.00 per hour.

39. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum wages in the amount of \$6,480.00.

40. Defendants' failure to pay the legal minimum wage to Plaintiff as alleged herein is unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by Plaintiff in a civil action for the unpaid balance of the full amount of the unpaid wages owed, calculated as the difference between the straight time compensation paid and applicable minimum wage, including interest thereon.

41. Pursuant to Labor Code §1194, Plaintiff requests that the court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

1 42. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
2 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
3 additional \$6,480.00, plus interest thereon.

4
5 **THIRD CAUSE OF ACTION**
6 **FOR FAILURE TO PAY OVERTIME COMPENSATION**
7 **LABOR CODE §§510, 1194**
8 **AGAINST ALL DEFENDANTS**

9 43. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
10 though set forth in full herein.

11 44. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
12 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
13 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
14 hours in a single day. It also requires employers to pay their non-exempt employees overtime
15 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
16 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
17 consecutive day of work.

18 45. At all relevant times, Defendants required Plaintiff to work more than eight hours per day
19 and/or more than 40 hours per workweek.

20 46. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
21 compensation required by Labor Code §510, 8 Code of Regulations §11090, and Industrial Welfare
22 Commission Order No. 9-2001.

23 47. In the four years last past, Plaintiff worked 8 hours of overtime each week, all of which
24 should have been paid at 1.5 times Plaintiff's regularly hour wage rate at that time. Defendants failed to
25 pay Plaintiff the requisite overtime wages in each of the following ways in the four years immediately
26 preceding the filing of this complaint:

27 48. From February 1, 2019 to December 31, 2019, Plaintiff's hourly overtime rate was \$45.00
28 per hour. During this time period, Plaintiff worked an average of 8 hours of overtime each week, for 48

1 weeks, or 384 hours, but did not receive any wages for these hours at all. Therefore, less the minimum
2 wage portion of \$12.00 per hour which Plaintiff has already claimed in the preceding cause of action,
3 Plaintiff is owed \$33.00 for each of those hours, totaling \$12,672.00.

4 49. From January 1, 2020 to May 1, 2020, Plaintiff's hourly overtime rate was \$45.00 per
5 hour. During this time period, Plaintiff worked an average of 8 hours of overtime each week, for 18
6 weeks, or 144 hours, but did not receive any wages for these hours at all. Therefore, less the minimum
7 wage portion of \$13.00 per hour which Plaintiff has already claimed in the preceding cause of action,
8 Plaintiff is owed \$32.00 per hour for each of those hours, totaling \$4,608.00.

9 50. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
10 Code §510, 8 Code Regulations §11090, and Industrial Welfare Commission Order No. 9-2001.

11 51. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
12 of \$17,280.00, above and beyond the minimum wages sought in the preceding cause of action for these
13 same hours.

14 52. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation as a
15 direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is
16 entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

17
18 **FOURTH CAUSE OF ACTION**
19 **FOR FAILURE TO PROVIDE REST BREAKS**
20 **LABOR CODE §226.7**
21 **AGAINST ALL DEFENDANTS**

22 53. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
23 though set forth in full herein.

24 54. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted
25 rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion
26 thereof.

27 55. In the four years last past, Plaintiff regularly worked in excess of five hours per day, and
28 was thereby entitled to take two 10-minute rest periods on each day of work.

1 56. Defendants failed and refused to provide Plaintiff with rest periods, or the opportunity to
2 take rest periods, and failed to compensate Plaintiff for missed rest periods, as required by Labor Code
3 §226.7 and the applicable sections of 8 Code of Regulations §11090 and Industrial Welfare Commission
4 Order No. 9-2001.

5 57. As alleged herein, Plaintiff is not exempt from the rest break requirements of 8 Code of
6 Regulations §11090 and Industrial Welfare Commission Order No. 9-2001. Consequently, Plaintiff is
7 owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage, whichever
8 is greater, for each day that Plaintiff was denied such rest periods, and is owed one hour of pay at
9 Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day that
10 Plaintiff was denied such rest periods, calculated as follows:

11 58. From approximately February 1, 2019 to May 1, 2020, Defendants failed to provide
12 Plaintiff with two statutory rest periods on approximately 396 separate days (6 days per week for 66
13 weeks). Consequently, Plaintiff is owed one hour of pay at \$30.00 per hour for each day, or \$11,880.00,
14 plus interest thereon, for unpaid rest periods.

15 59. Plaintiff has been deprived of Plaintiff's rightfully earned compensation for rest breaks as
16 a direct and proximate result of Defendants' failure and refusal to pay said compensation.

17 60. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
18 such amounts in the combined amount of \$11,880.00, pursuant to Labor Code §226.7(b), plus interest
19 thereon and costs of suit.

20
21 **FIFTH CAUSE OF ACTION**
22 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
23 **LABOR CODE §§226 ET SEQ.**
24 **AGAINST ALL DEFENDANTS**

25 61. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
26 though set forth in full herein.

27 62. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
28 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,

1 total deductions and net wages earned. An employer who violates these code sections is liable to its
2 employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the
3 initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay
4 period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is
5 deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement
6 at all.

7 63. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates
8 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation
9 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

10 64. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
11 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net
12 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and
13 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
14 by Plaintiff. For the majority of the time and as to nearly all of Plaintiff's wages, Defendants knowingly
15 and intentionally, not inadvertently, failed to provide Plaintiff with paystubs at all, and instead paying
16 Plaintiff entirely in cash without any calculations of how Plaintiff's gross wages were calculated. Not one
17 of the paystubs that Plaintiff received complied with Labor Code §226, and contained almost none of the
18 required information, including hours actually worked.

19 65. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

20 66. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
21 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
22 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
23 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
24 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
25 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
26 and rest period wages. For the time periods that Plaintiff was not provided with paystubs at all, Plaintiff's
27 aforementioned injuries are presumed as a matter of law.

1 67. Plaintiff was paid on a weekly basis, and therefore Defendants violated Labor Code §226
2 approximately 9 times during the one year preceding the filing of this complaint. Consequently,
3 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
4 amount of \$4,000.00, whichever is greater.

5 68. In addition thereto, for Defendants' 9 violations, Defendants are penalized \$250.00 for the
6 first violation, and the remainder of which Defendants are penalized \$1,000.00 each, for a total due in
7 Labor Code §226.3 penalties of \$8,250.00.

8 69. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
9 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other
10 applicable provisions, as well as attorneys' fees and costs.

11
12 **SIXTH CAUSE OF ACTION**
13 **FOR WAITING TIME PENALTIES**
14 **LABOR CODE §§201-203**
15 **AGAINST ALL DEFENDANTS**

16 70. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
17 though set forth in full herein.

18 71. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
19 other compensation due immediately upon termination or within 72 hours of resignation, as required.
20 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and rest period
21 compensation that Defendants should have paid, but did not pay to Plaintiff during the term of Plaintiff's
22 employment and which were, at the latest, due within the time restraints of Labor Code §§201-203.

23 72. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
24 203.

25 73. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
26 is entitled to payment of Plaintiff's overtime, and rest periods as previously pleaded herein, and more
27 than \$7,875.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
28 \$262.50, inclusive of overtime.

1 74. Based on Defendants' conduct as alleged herein, Defendants are liable for \$7,875.00 in
2 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
3 fees and costs.

4
5 **SEVENTH CAUSE OF ACTION**
6 **FOR PRIVATE ATTORNEY GENERAL ACT**
7 **LABOR CODE §2699**
8 **AGAINST ALL DEFENDANTS**

9 75. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
10 though set forth in full herein.

11 76. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against
12 Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties
13 for Defendants' violations of the California Labor Code.

14 77. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and
15 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as
16 previously pleaded in this Complaint.

17 78. More than 63 calendar days before filing this Complaint, Plaintiff provided electronic
18 notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants of
19 the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the
20 requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201, 202, 203, 226,
21 226.7, 226.8, 510, 512, 1174, 1182.12, 1194, 1194.2, and 1197, each of which is enumerated among the
22 serious violations set forth in Labor Code §2699.5.

23 79. As of the filing of this Complaint, Plaintiff has not received any response from the Labor
24 and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently,
25 Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

26 80. As a direct and proximate result of Defendants' California Labor Code violations as set
27 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100.00 for each aggrieved employee per
28 pay period for the initial violation, and \$200.00 for each aggrieved employee per pay period for each

1 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
2 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
3 provide for a penalty, §§226.3, 226.7, 510, 512, and 558.

4 81. Plaintiff may also seek these penalties on behalf of himself and these same penalties on
5 behalf of all other aggrieved employees.

6 82. Plaintiff is also entitled to reasonable attorneys' fees and costs, and 25% of the recovered
7 civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

8
9 **EIGHTH CAUSE OF ACTION**

10 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**

11 **LABOR CODE §1198.5**

12 **AGAINST ALL DEFENDANTS**

13 83. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
14 though set forth in full herein.

15 84. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request
16 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
17 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

18 85. On December 28, 2020, Plaintiff made a written request to inspect or receive a copy of
19 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

20 86. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and
21 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within
22 the time required by Labor Code §1198.5, or ever.

23 87. As a result of Defendants' failure and refusal to comply with Labor Code §1198.5,
24 Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00.

NINTH CAUSE OF ACTION
FOR UNFAIR COMPETITION
BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.
AGAINST ALL DEFENDANTS

88. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

89. Defendants' violations of 8 Code of Regulations §11090, Industrial Welfare Commission Order No. 9-2001, Labor Code §§201-203, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5, 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay minimum wages, overtime wages, Defendants' failure to provide rest breaks, Defendants' failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business & Professions Code §§17200, et seq.

90. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

91. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendants and each of them, in an amount according to proof as follows:

1. For a money judgment representing compensatory damages including lost wages, earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,

1 together with interest on these amounts; for other special damages; and for general damages for mental
2 pain and anguish and emotional distress and loss of earning capacity;

3 2. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12,
4 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 9-2001, in the amount of no less than
5 \$6,480.00;

6 3. For liquidated damages pursuant to Labor Code §1194.2 in the amount of \$6,480.00, plus
7 interest;

8 4. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194,
9 Industrial Welfare Commission Order No. 9-2001, and 8 Code of Regulations §11090, in the amount of
10 no less than \$17,280.00;

11 5. For statutory penalties or damages pursuant to Labor Code §558 in the amount of no less
12 than \$850.00;

13 6. For payment of rest period compensation pursuant to Labor Code §226.7, in the amount
14 of no less than \$11,880.00;

15 7. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;

16 8. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no
17 less than \$8,250.00;

18 9. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
19 than \$7,875.00;

20 10. For statutory penalties pursuant to Labor Code §2699(f), on Plaintiff's own behalf, and
21 similar amounts on behalf of all of Defendants' aggrieved employees, in an amount according to proof;

22 11. For statutory penalties pursuant to Labor Code §1198.5 in the amount of no less than
23 \$750.00;

24 12. For prejudgment interest on each of the foregoing at the legal rate from the date the
25 obligation became due through the date of judgment in this matter.

26 **WHEREFORE**, Plaintiff further seeks judgment against Defendants, and each of them, in an
27 amount according to proof, as follows:
28

1 13. For injunctive relief compelling Defendants to report to federal and state authorities the
2 wages earned by Plaintiff, and other employees, and pay all state and federal taxes owing, employer
3 matching funds, unemployment premiums, social security, Medicare, and workers' compensation
4 premiums, all this in an amount according to the proof;

5 14. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful
6 conduct, misclassification of Plaintiff as an independent contractor, and failure to pay wages and other
7 compensation in accordance with the law;

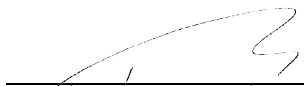
8 15. For costs of suit, attorneys' fees, and expert witness fees pursuant to the Labor Code and/or
9 any other basis;

10 16. For post-judgment interest; and

11 17. For any other relief that is just and proper.

12 DATED: March 5, 2021

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

14
15 By: 

Ramin R. Younessi, Esq.
Attorney for Plaintiff
JOSE MAURICIO RIVERA

17 **JURY TRIAL DEMANDED**

18 Plaintiff demands trial of all issues by jury.

19
20 DATED: March 5, 2021

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

21
22 By: 

Ramin R. Younessi, Esq.
Attorney for Plaintiff
JOSE MAURICIO RIVERA