

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mark Mooney

David R. Greifinger, Esq. (SBN 105242)
LAW OFFICES OF DAVID R. GREIFINGER
15515 W. Sunset Boulevard, Unit 214
Pacific Palisades, California 90272
Telephone: (424) 330-0193
Facsimile: (831) 920-4864
tracklaw@me.com

*Attorneys for Plaintiff,
JEREMIAH FREED*

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

JEREMIAH FREED, an individual, and on
behalf of all aggrieved employees

Plaintiffs,

vs.

MASHCOLE PROPERTY
MANAGEMENT, INC., a California
corporation; and DOES 1 through 50
inclusive

Defendants.

Case No. 21STCV08700

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, *ET
SEQ.***

- 1. FAILURE TO PAY OVERTIME
COMPENSATION AND
LIQUIDATED DAMAGES [CAL. LAB.
CODE §§ 510, 1194, 1194.2, and 1198];**
- 2. FAILURE TO PAY MINIMUM
WAGES AND LIQUIDATED
DAMAGES [CAL. LAB. CODE §§
1182.12, 1194, 1194.2, 1197, 1197.1, and
1198 and 8 CAL. CODE REGS. §§ 11050];**
- 3. FAILURE TO PROVIDE MEAL
PERIODS [CAL. LAB. CODE §§ 226.7
and 512, and 8 CAL. CODE REGS. §§
11050];**
- 4. FAILURE TO PROVIDE REST
PERIODS [CAL. LAB. CODE §§ 226.7
and 512, and 8 CAL. CODE REGS. §§
11050];**
- 5. FAILURE TO PROVIDE ITEMIZED
STATEMENTS AND MAINTAIN
ACCURATE PAYROLL RECORDS
[CAL. LAB. CODE §§ 226(a), 1174(d),
and 1198];**
- 6. FAILURE TO REIMBURSE
BUSINESS EXPENSES [CAL. LAB.
CODE §§ 2800, 2802];**
- 7. VIOLATIONS OF THE CALIFORNIA
OCCUPATIONAL SAFETY AND
HEALTH ACT OF 1973 [CAL. LAB.
CODE §§ 6300, *et seq.*];**
- 8. FAILURE TO PAY WAGES UPON**

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**TERMINATION OF EMPLOYMENT
[CAL. LAB. CODE § 203];
9. UNFAIR COMPETITION [CAL. BUS.
& PROF. CODE §§ 17200, *et seq.*]; and,
10. CIVIL PENALTIES FOR
VIOLATIONS OF THE CALIFORNIA
LABOR CODE, PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL
ACT [CAL. LAB. CODE §§ 2698, *et seq.*]**

DEMAND FOR A JURY TRIAL

Complaint filed:

Trial Date:

All allegations in this Complaint are based upon information and belief except for those allegations which pertain to the Plaintiff named herein and his counsel. Each allegation has evidentiary support, or is likely to have evidentiary support, after a reasonable opportunity for further investigation and discovery.

I.

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Complaint under CAL. CIV. PROC. CODE § 410.10. The Plaintiff brings this Complaint on his own behalf and on behalf of all aggrieved employees.

2. Venue is proper in the Court under CAL. CIV. PROC. CODE §§ 395 and 395.5 because the claims made, and the CAL. LAB. CODE violations as against the persons identified herein, occurred in the County of Los Angeles, California. Further, each of the Defendants owned and operated their businesses in the County of County of Los Angeles, California.

3. The Private Attorney Generals Act (“PAGA”) authorizes aggrieved employees to sue directly as the proxy of the State of California for civil penalties for violations of various provisions in the CAL. LAB. CODE.

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II.

THE PARTIES

PLAINTIFFS

4. JEREMIAH FREED is, and at all material times mentioned was:

- (a) An individual who resides in Los Angeles County, California;
- (b) Jointly employed by MASHCOLE PROPERTY MANAGEMENT, INC. and/or DOES 1 through 50 (“DEFENDANTS”), from on or about October 2019 to on or about February 7, 2020;
- (c) Was not properly paid for overtime hours worked;
- (d) Was not properly paid minimum wages for hours worked;
- (e) Did not receive compliant meal periods or meal period premiums;
- (f) Did not receive compliant rest periods or rest period premiums;
- (g) Did not receive accurate itemized wage statements;
- (h) Did not receive proper reimbursements for business expenses incurred in the course and scope of his employment;
- (i) Was subjected to an unhealthy and unsafe workplace in violation of the California Occupational Safety and Health Act of 1973;
- (j) When terminated from his employment, was not paid for overtime wages owed, minimum wages owed, meal period wages owed, and rest period wages owed within the time limits prescribed by CAL. LABOR CODE § 201

5. JEREMIAH FREED is referred to as “PLAINTIFF” throughout this Complaint.

DEFENDANTS

6. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that Defendant MASHCOLE PROPERTY MANAGEMENT, INC., is, and at all times mentioned was:

- 1 (a) A California corporation authorized to conduct business, and actually
2 conducting business, in Los Angeles County, California;
- 3 (b) The manager of multiple residential apartment complexes in Los
4 Angeles County, California;
- 5 (c) Along with and DOES 1 through 50, inclusive, was the former joint
6 employer of PLAINTIFF, and all aggrieved employees, as
7 MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1
8 through 50 controlled PLAINTIFF's, and all aggrieved employees'
9 wages, hours, working conditions, and how PLAINTIFF, and all
10 aggrieved employees were paid;
- 11 (d) Failed to properly pay PLAINTIFF, and all aggrieved employees, for
12 overtime wages, for minimum wages, for missed meal periods, for
13 missed rest periods, failed to provide PLAINTIFF, and all aggrieved
14 employees with accurate itemized wage statements, failed to
15 reimburse PLAINTIFF, and all aggrieved employees, for business
16 expenses incurred in the course of their employment, failed to provide
17 PLAINTIFF, and all aggrieved employees with a safe and healthy
18 workplace in violation of the California Occupational Safety and
19 Health Act of 1973, and failed to pay PLAINTIFF, and all aggrieved
20 employees for wages due upon termination. Each of these
21 transgressions violated the CAL. LAB. CODE.

22 7. MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1 through 50
23 are collectively referred to as "DEFENDANTS" throughout this Complaint.

24 8. The true names and capacities, whether individual, corporate, subsidiary,
25 partnership, associate or otherwise of Defendant DOES 1 through 50, inclusive, are
26 unknown to the PLAINTIFF, who therefore sues these Defendants by those fictitious names
27 under CAL. CIV. PROC. § 474. PLAINTIFF will seek leave to amend the Complaint to
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1 allege the true names and capacities of DOES 1 through 50, inclusive, when they are
2 ascertained.

3 9. PLAINTIFF is informed and believes, and based upon that information and
4 belief alleges, that Defendant DOES 1 through 50 are persons, corporations or other entities
5 which reside in, or are otherwise doing business in the State of California. Each of the
6 Defendant DOES 1 through 50 was the managerial agent, employee, predecessor,
7 successor, joint-venturer, co-conspirator, alter ego and/or representative of one or more of
8 the other Defendants named herein, and acted with permission, authorization and/or
9 ratification and consent of other Defendants.

10 10. PLAINTIFF is informed and believes, and based upon that information and
11 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
12 inclusive, are responsible in some manner for one or more of the events and happenings
13 that proximately caused the injuries and damages hereinafter alleged.

14 11. PLAINTIFF is informed and believes, and based upon that information and
15 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
16 inclusive, are, and at all times mentioned herein were, the agents, servants, and/or
17 employees of each of the other Defendants, and that each Defendant was acting within the
18 course of scope of his, hers, or its authority as the agent, servant and/or employee of each
19 of the other Defendants. Consequently, all the Defendants are jointly and severally liable to
20 PLAINTIFF, and all aggrieved employees for their damages sustained as a proximate result
21 of Defendants' conduct.

22 12. PLAINTIFF is informed and believes, and based upon that information and
23 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
24 inclusive, knowingly and willfully acted in concert, conspired and agreed together among
25 themselves and entered into a combination and systemized campaign of activity to *inter*
26 *alia* damage PLAINTIFF, and all aggrieved employees and to otherwise consciously and/or
27 recklessly act in derogation of PLAINTIFF's, and all aggrieved employees rights, and the
28 trust reposed by PLAINTIFF, and all aggrieved employees in each of the Defendants, the

1 acts being negligently and/or intentionally inflicted. Their conspiracy, and Defendants'
2 concerted actions, were such that, to PLAINTIFF's information and belief, and to all
3 appearances, Defendants represented a unified body so that the actions of one Defendant
4 were accomplished in concert with, and with the knowledge, ratification, authorization and
5 approval of each of the other Defendants.

6 **ALTER-EGO ALLEGATIONS**

7 13. PLAINTIFF is informed and believes, and based upon that information and
8 belief alleges, that:

9 (a) MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1 through 50,
10 are, and at all relevant times were, mere shells without capital, assets, stock or
11 stockholders;

12 (b) Defendants MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1
13 through 50 are, and at all relevant times were, the alter ego of Defendants DOES 1 through
14 50, inclusive, and each of them, who were the controlling shareholders, officers, and
15 directors of MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1 through 50;

16 (c) There is, and at all relevant times was, a unity of interest and/or ownership
17 between all of these Defendants so that any individuality or separateness between them has
18 ceased to exist in that MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1
19 through 50, inclusive were and are under their control and domination; and,

20 (d) MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1 through 50,
21 inclusive are, and at all relevant times were, completely controlled, dominated, managed
22 and operated by Defendants DOES 1 through 50, inclusive, and each of them, so that
23 MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1 through 50 were mere
24 shells, instrumentalities, and/or conduits through which each of these Defendants
25 conducted some or all of their/its business. Adherence to the fiction of the separate
26 existence of MASHCOLE PROPERTY MANAGEMENT, INC., and DOES 1 through 50,
27 inclusive as entities distinct from Defendants DOES 1 through 50, inclusive, or any of
28 them, would permit an abuse of the corporate privilege and sanction fraud or promote

1 injustice in that, among other things, it would enable each of these Defendants to avoid
2 liability and to defraud his, her, or its creditors, the effect of which would be to render each
3 Defendant financially unable to respond to a monetary judgment awarded against each or
4 any of them in the action.

5 14. PLAINTIFF and all persons employed by DEFENDANTS in California who
6 received at least one wage statement are “aggrieved employees” as defined by CAL. LAB.
7 CODE § 2699 in that they are all current or former employees of DEFENDANTS, and one
8 or more of the alleged violations was committed against them.

9 III.

10 PAGA REPRESENTATIVE ALLEGATIONS

11 15. At all times herein set forth, PAGA provides that any provision of law under
12 the CAL. LAB. CODE and applicable IWC Wage Order that provides for a civil penalty to be
13 assessed and collected by the LWDA for violations of the CAL. LAB. CODE and applicable
14 IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a civil
15 action brought on behalf of themselves and other current or former employees pursuant to
16 procedures outlined in CAL. LAB. CODE § 2699.3.

17 16. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as
18 “any person who was employed by the alleged violator and against whom one or more of
19 the alleged violations was committed.”

20 17. PLAINTIFF and other current and former employees of DEFENDANTS are
21 “aggrieved employees” as defined by Labor Code section 2699(c) in that they are all
22 Defendants’ current or former employees and one or more of the alleged violations were
23 committed against them.

24 18. On December 29, 2020, PLAINTIFF provided written notice by online filing to the
25 LWDA and by Certified Mail to DEFENDANTS of the specific provisions of the California
26 Labor Code alleged to have been violated, including facts and theories to support the alleged
27 violations, in accordance with CAL. LAB. CODE § 2699.3. PLAINTIFF’s notice was
28 accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA

1 Administrator confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case
2 Number LWDA-CM-816674-20.

3 19. PLAINTIFF has satisfied the administrative prerequisites under CAL. LAB. CODE
4 §§ 2699.3(a) and 2699.3(c) to recover civil penalties against DEFENDANTS for violations of
5 CAL. LAB. CODE §§ 201, 202, 203, 226, 226.7, 227.3, 510, 512, 558, 1174, 1194, 1194.2, 1198,
6 2800, 2802, 6300, 6400, 6401.7, 6402, 6403 6404.

7 20. CAL. LAB. CODE § 558(a) provides, "Any employer or other person acting on
8 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
9 provision regulating hours and days of work in any order of the Industrial Welfare Commission
10 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
11 each underpaid employee for each pay period for which the employee was underpaid . . . (2)
12 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
13 each pay period for which the employee was underpaid" Labor Code section 558(d)
14 provides, "The civil penalties provided for in this section are in addition to any other civil or
15 criminal penalty provided by law."

16 21. DEFENDANTS, at all times relevant to this complaint, were employers or persons
17 acting on behalf of an employer(s) who violated PLAINTIFF'S and other aggrieved employees'
18 rights by violating various sections of the CAL. LAB. CODE as set forth above.

19 22. As set forth below, DEFENDANTS have violated numerous provisions of both the
20 CAL. LAB. CODE sections regulating hours and days of work as well as the applicable IWC
21 Wage Order.

22 23. Pursuant to PAGA, and in particular, CAL. LAB. CODE §§ 2699(a), 2699.3(a),
23 2699.3(c), and 2699.5, and section 558, PLAINTIFF, acting in the public interest as a private
24 attorney general, seeks assessment and collection of civil penalties for himself, all other
25 aggrieved employees, and the State of California against DEFENDANTS for violations of CAL.
26 LAB. CODE §§ 201, 202, 203, 226, 226.7, 227.3, 510, 512, 558, 1174, 1194, 1194.2, 1198, 2800,
27 2802, 6300, 6400, 6401.7, 6402, 6403 6404.
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1 IV.

2 **THE CONDUCT**

3 24. DEFENDANTS operate and manage multiple residential apartment complexes
4 throughout California.

5 25. DEFENDANTS' business requires the use of "non-exempt" employees as
6 defined by the California Labor Code and IWC Wage Order No. 5-2001 (as amended),
7 including residential apartment managers, assistants, and maintenance workers.

8 26. DEFENDANTS jointly employed PLAINTIFF from on or about October, 2019
9 to on or about February 7, 2020, as a residential apartment manager.

10 27. PLAINTIFF regularly worked from 9:00 a.m. to 5:30 p.m. Monday through
11 Friday. DEFENDANTS paid PLAINTIFF approximately \$20.00 per hour, regardless of the
12 hours that he worked. DEFENDANTS completely failed to pay PLAINTIFF for
13 approximately 10 additional hours he spent per month handling emergencies and other
14 maintenance issues that arose at a property that DEFENDANTS managed. DEFENDANTS
15 completely failed to pay PLAINTIFF for time spent travelling to and from training
16 sessions.

17 28. PLAINTIFF's job duties included, among other things, preparing apartment
18 units for leasing, showing apartment units to prospective tenants, depositing rental checks,
19 responding to tenant maintenance concerns, and interacting with maintenance vendors, at
20 DEFENDANT's apartment complex.

21 29. During PLAINTIFF's employment, DEFENDANTS exercised complete and
22 unfettered control over PLAINTIFF's, and all aggrieved employees' work schedules; their
23 hours worked; their rate of pay and method of payment; dictated how PLAINTIFF, and all
24 aggrieved employees would actually perform their job duties; and dictated when
25 PLAINTIFF, and all aggrieved employees could or could not take lunch or rest breaks.
26 PLAINTIFF, and all aggrieved employees could not exercise discretion and independent
27 judgment in performing their tasks. PLAINTIFF, and all aggrieved employees had to obtain
28 approval on all actions they took on their jobs. Additionally, DEFENDANTS did not pay

1 PLAINTIFF, and all aggrieved employees salaries twice the state minimum wage for full-
2 time employment. CAL. CODE REGS. § 11050, including the applicable California Wage
3 Order apply to PLAINTIFF, and all aggrieved employees. PLAINTIFF and all aggrieved
4 employees were not exempt employees or independent contractors.

5 30. During PLAINTIFF's, and all aggrieved employees' employment,
6 DEFENDANTS failed to properly pay PLAINTIFF, and all aggrieved employees for
7 overtime hours worked.

8 31. CAL. LAB. CODE § 510 provides that employees in California shall not be
9 employed more than 8 hours in any workday or 40 hours in a workweek unless they receive
10 additional compensation beyond their regular wages in amounts specified by law.

11 32. CAL. LAB. CODE. §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198 require
12 employers to pay employees the minimum wage fixed by the California Industrial Welfare
13 Commission. The payment of a lesser wage than the minimum so fixed is unlawful.

14 33. During PLAINTIFF's, and all aggrieved employees' employment,
15 DEFENDANTS failed to properly pay PLAINTIFF, and all aggrieved employees minimum
16 wages for all hours worked.

17 34. DEFENDANTS failed to permit PLAINTIFF, and all aggrieved employees to
18 take code-complaint meal periods.

19 35. DEFENDANTS regularly failed to provide PLAINTIFF, and all aggrieved
20 employees with code-compliant thirty (30) minute meal periods during shifts in excess of
21 five (5) hours, and a second meal period of at least thirty (30) minutes during shifts in
22 excess of ten (10) hours. When meal periods were provided, they were shorter in duration
23 than 30 minutes or were interrupted. DEFENDANTS effectively maintained control over
24 PLAINTIFF, and all aggrieved employees during the meal periods that were provided. On
25 each day where a code-compliant thirty (30) minute meal period was not provided to
26 PLAINTIFF, and all aggrieved employees, DEFENDANTS failed to pay PLAINTIFF, and
27 all aggrieved employees one additional hour of pay at their regular rates of pay.

28 36. DEFENDANTS refused to allow PLAINTIFF, and all aggrieved employees to

1 take code-complaint rest periods.

2 37. DEFENDANTS did not provide PLAINTIFF, and all aggrieved employees
3 with a code compliant 10-minute net rest period for every four (4) hours or major fraction
4 thereof worked. Where rest periods were provided, they were shorter in duration than 10
5 minutes, were interrupted, or were not provided every four (4) hours or major fraction
6 thereof worked. DEFENDANTS effectively maintained control over PLAINTIFF, and all
7 aggrieved employees during rest periods that were provided. On each day when code-
8 compliant ten (10) minute rest periods were not provided to PLAINTIFF, and all aggrieved
9 employees, DEFENDANTS failed to pay PLAINTIFF, and all aggrieved employees one
10 additional hour of pay at their regular rates of pay.

11 38. Under California law, an employee who works more than 4 hours or major
12 fraction thereof is entitled to a compensated rest period of 10 minutes. An employee who
13 works more than 5 hours in a day is entitled to a meal period of at least 30 minutes, and a
14 second meal period of at least 30 minutes if he or she works more than 10 hours in a
15 workday. (CAL. LAB. CODE § 512(a).) An employer that fails to provide a rest or meal
16 period that satisfies the requirements of the applicable IWC Wage Order 5-2001 (as
17 amended) must pay a premium to the employee of one additional hour of pay at the
18 employee's regular rate for each day that a meal or rest period was not provided. (CAL.
19 LAB. CODE § 226.7(b).)

20 39. The wage statements that DEFENDANTS provided to PLAINTIFF, and all
21 aggrieved employees did not conform with CALIFORNIA LABOR CODE § 226 as those wage
22 statements failed to accurately reflect PLAINTIFF's, and all aggrieved employees' hours
23 worked, including overtime wages, minimum wages, missed meal periods, and rest periods,
24 and failed to state the correct rate of pay.

25 40. DEFENDANTS did not properly reimburse PLAINTIFF, and all aggrieved
26 employees for all necessary expenditures incurred in the course and scope of
27 PLAINTIFF's, and all aggrieved employees' employment, as required by CAL. LAB. CODE
28 §§ 2800 and 2802. Necessary unreimbursed business-related expenses include, but were not

1 limited to PLAINTIFF's, and all aggrieved employees' use of personal vehicles, cell
2 phones, and cell phone plans for work purposes as required by DEFENDANTS.

3 41. DEFENDANTS forced PLAINTIFF, and all aggrieved employees to work in
4 unsafe, and unhealthy conditions, and without personal protective equipment, all in
5 violation of California Occupational Safety and Health Act of 1973 and the CALIFORNIA
6 CODE OF REGULATIONS. In the course of their duties at DEFENDANTS' facilities,
7 PLAINTIFF, and all aggrieved employees frequently entered into units of apartment
8 buildings built before 1978 to inspect broken or otherwise disturbed popcorn-textured
9 ceilings. DEFENDANTS placed PLAINTIFF, and all aggrieved employees at risk of
10 exposure to asbestos, as DEFENDANTS never provided its employees with proper personal
11 protective gear when faced with disturbed popcorn-textured ceilings in the apartment units.
12 There was no signage outside anywhere on DEFENDANTS' premises warning
13 PLAINTIFF, and all aggrieved employees of these hazardous conditions.

14 42. As evidenced by the conduct discussed, *supra*, DEFENDANTS failed to
15 properly assess its workplace for hazardous conditions and implement a proper and
16 effective written injury-prevention program to protect PLAINTIFF, and all aggrieved
17 employees from workplace hazards.

18 43. DEFENDANTS' conduct flagrantly violated, among other laws, the California
19 Occupational Safety and Health Act of 1973 (CALIFORNIA LABOR CODE §§ 6300, *et. seq.*)
20 and the CALIFORNIA CODE OF REGULATIONS. The California Occupational Safety and Health
21 Act of 1973 requires employers to, inter alia, furnish employment and a place of
22 employment that is safe and healthful for the employees, to establish, implement, and
23 maintain a written and effective injury prevention program, to provide and use safety
24 devices and safeguards reasonably adequate to render the employment and place of
25 employment safe, and to assess the workplace to determine if hazards are present which
26 necessitate the use of personal protective equipment and then select, purchase, and have
27 each affected employee use, the types of personal protective equipment that will protect the
28 affected employee from the hazards identified in the hazard assessment.

1 44. CAL. LAB. CODE § 201(a) provides that a discharged employee's unpaid wages
2 are due and payable immediately. Under CAL. LAB. CODE § 202(a), when an employee not
3 having a written contract for a definite period is terminated, his or her wages become
4 immediately due and payable. CAL. LAB. CODE § 203(a) provides, "If an employer willfully
5 fails to pay, without abatement or reduction, in accordance with Sections [201 and 202],
6 any wages of an employee who is discharged or who quits, the wages of the employee shall
7 continue as a penalty from the due date thereof at the same rate until paid or until an action
8 therefore is commenced; but the wages shall not continue for more than 30 days."

9 45. As a result, under CAL. LAB. CODE § 203, PLAINTIFF and aggrieved
10 employees are entitled to one day's wages for each day they were not timely paid all wages
11 due, up to a maximum of 30 days' wages. Because DEFENDANTS failed to pay overtime
12 wages, minimum wages, and meal and rest period wages to PLAINTIFF, and aggrieved
13 employees, each of these individuals whose employment has been terminated during the
14 applicable statutory period, including PLAINTIFF, are entitled to 30 days' wages.

15 **FIRST CAUSE OF ACTION**
16 **FOR FAILURE TO PAY OVERTIME COMPENSATION AND LIQUIDATED**
17 **DAMAGES**

18 **[CAL. LAB. CODE §§ 510, 1194, 1194.2 and 1198]**

19 **(By PLAINTIFF, and Against All DEFENDANTS)**

20 46. PLAINTIFF repeats and re-alleges paragraphs 1 through 45, inclusive, of this
21 Complaint and they are incorporated herein by this reference.

22 47. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS
23 were the joint employers of PLAINTIFF.

24 48. CAL. LAB. CODE § 510 provides that employees in California shall not be
25 employed more than 8 hours in any workday or 40 hours in a workweek unless they receive
26 additional compensation beyond their regular wages in amounts specified by law.

27 49. CAL. CODE REGS. § 11050(3)(A)(3) provides that overtime hours shall be
28 compensated at: (a) One and one-half (1 ½) times the employee's regular rate of pay for all

1 hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for
2 the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;
3 and (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in
4 any workday and for all hours worked in excess of eight (8) hours on the seventh (7th)
5 consecutive day of work in a workweek.

6 50. CAL. LAB. CODE § 1194 establishes an employee's right to recover unpaid
7 overtime compensation, interest thereon, together with the costs of suit, and attorneys' fees.
8 CAL. LAB. CODE § 1198 states that the employment of an employee for longer hours than
9 those fixed by the Industrial Welfare Commission is unlawful.

10 51. CAL. LAB. CODE § 1194.2 establishes an employee's right to recover liquidated
11 damages in an amount equal to the wages unlawfully unpaid and interest thereon in an
12 action for payment of a wage less than the minimum wage fixed by the Industrial Welfare
13 Commission or by statute.

14 52. At all times relevant hereto, PLAINTIFF worked more than 8 hours in a
15 workday and/or 40 hours in a workweek as employees of DEFENDANTS. At all times
16 relevant hereto, PLAINTIFF was paid on an hourly basis.

17 53. At all times relevant hereto, DEFENDANTS failed to pay overtime
18 compensation to PLAINTIFF for the hours he worked in excess of maximum hours
19 permissible by law as required by CAL. LAB. CODE §§ 510, 1194, and 1198.

20 54. DEFENDANTS acted intentionally, oppressively, and maliciously toward
21 PLAINTIFF, with a conscious disregard of his rights, or the consequences to him, with the
22 intent of depriving him of property and legal rights and otherwise causing them injury. By
23 virtue of DEFENDANTS' unlawful failure to pay overtime wages, PLAINTIFF has
24 suffered, and will continue to suffer, damages in the amounts which are presently unknown
25 to him but which exceed the jurisdictional limits of the court and which will be ascertained
26 according to proof at trial

27 55. PLAINTIFF seeks to recover overtime wages according to proof, interest, as
28 well as the assessment of all applicable statutory penalties against DEFENDANTS, in a

1 sum as provided by the CAL. LAB. CODE and/or other statutes. PLAINTIFF also seeks to
2 recover liquidated damages as provided by CAL. LAB. CODE § 1194.2, and reasonable
3 attorneys' fees and costs.

4 **SECOND CAUSE OF ACTION**

5 **FOR FAILURE TO PAY MINIMUM WAGES AND LIQUIDATED DAMAGES**

6 **[CAL. LAB. CODE §§ 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and CAL. CODE REGS.**
7 **§§ 11050]**

8 **(By PLAINTIFF, and Against All DEFENDANTS)**

9 56. PLAINTIFF repeats and re-alleges paragraphs 1 through 55, inclusive, of this
10 Complaint and they are incorporated herein by this reference.

11 57. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS
12 were the joint employers of PLAINTIFF.

13 58. CAL. LAB. CODE §§ 1182.12, 1197, and 1197.1 require employers to pay
14 employees the minimum wage fixed by the California Industrial Welfare Commission. The
15 payment of a lesser wage than the minimum so fixed is unlawful.

16 59. Compensable work time is defined in Industrial Wage Order No. 5 as "the time
17 during which an employee is subject to the control of an employer, and includes all the
18 time the employee is suffered or permitted to work, whether or not required to do so." (8
19 CAL. CODE REGS. §§ 11050(2)(K) [defining "Hours Worked"]).

20 60. CAL. LAB. CODE § 1194 establishes an employee's right to recover unpaid
21 wage compensation, interest thereon, together with the costs of suit, and attorneys' fees.

22 61. CAL. LAB. CODE § 1194.2 establishes an employee's right to recover liquidated
23 damages in an amount equal to the wages unlawfully unpaid and interest thereon in an
24 action for payment of a wage less than the minimum wage fixed by the Industrial Welfare
25 Commission or by statute.

26 62. At all times relevant hereto, DEFENDANTS paid PLAINTIFF on an hourly
27 basis.
28

63. During PLAINTIFF's employment, DEFENDANTS failed to properly pay PLAINTIFF for all hours worked at the legal minimum wage.

64. DEFENDANTS acted intentionally, oppressively, and maliciously toward PLAINTIFF, with a conscious disregard of his rights, or the consequences to him, with the intent of depriving him of property and legal rights and otherwise causing him injury. By virtue of DEFENDANTS' unlawful failure to pay wages, PLAINTIFF has suffered, and will continue to suffer damages in an amount that is presently unknown to him but which exceeds the jurisdictional limits of the court and which will be ascertained according to proof at trial.

65. PLAINTIFF seeks to recover minimum wages according to proof, interest, and the assessment of all applicable statutory penalties against DEFENDANTS, in a sum as provided by the CAL. LAB. CODE and/or other statutes. PLAINTIFF also seeks to recover liquidated damages as provided by CAL. LAB. CODE § 1194.2, and reasonable attorneys' fees and costs.

THIRD CAUSE OF ACTION

FOR FAILURE TO PROVIDE MEAL PERIODS

[CAL. LAB. CODE §§ 226.7 and 512, and 8 CAL. CODE REGS. § 11050]

(By PLAINTIFF, and Against All DEFENDANTS)

66. PLAINTIFF repeats and re-alleges paragraphs 1 through 65, inclusive, of this Complaint and they are incorporated herein by this reference.

67. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS were the joint employers of PLAINTIFF.

68. CAL. LAB. CODE §§ 226.7 and 512, and 8 CAL. CODE REGS. §§ 11050(11)(A) provide that an employee who works more than five (5) hours in a day is entitled to a meal period of at least thirty (30) minutes, and a second meal period of at least thirty (30) minutes if he or she works more than ten (10) hours in a work day.

69. CAL. LAB. CODE § 226.7 and 8 CAL. CODE REGS. §§ 11050(11)(D) provide that if an employer fails to provide an employee a meal period in accordance with the section,

1 the employer shall pay the employee one (1) hour of pay at the employee's regular rate of
2 compensation for each workday that the meal period is not provided.

3 70. At all times relevant hereto, PLAINTIFF worked more than five (5) hours in a
4 workday for DEFENDANTS.

5 71. At all times relevant hereto, PLAINTIFF worked more than ten (10) hours in a
6 workday for DEFENDANTS.

7 72. DEFENDANTS regularly failed to provide PLAINTIFF with compliant thirty
8 (30) minute meal periods during shifts in excess of five (5) hours and compliant second
9 meal periods of at least thirty (30) minutes during shifts in excess of ten (10) hours. When
10 meal periods were provided, they were shorter in duration than 30 minutes or were
11 interrupted. DEFENDANTS effectively maintained control over PLAINTIFF during the
12 meal periods that were provided. On each day where a compliant thirty (30) minute meal
13 period was not provided to PLAINTIFF, DEFENDANTS failed to pay PLAINTIFF one
14 additional hour of pay at PLAINTIFF's regular rates of pay.

15 73. DEFENDANTS have intentionally and improperly denied meal periods to
16 PLAINTIFF, in violation of CAL. LAB. CODE §§ 226.7 and 512 and 8 CAL. CODE REGS. §
17 11050(11)(A) and other regulations and statutes.

18 74. By virtue of the DEFENDANTS' unlawful failure to provide meal periods to
19 PLAINTIFF, PLAINTIFF, has suffered, and will continue to suffer, damages in amounts
20 which are presently unknown to PLAINTIFF, but which damages exceed the jurisdictional
21 limits of the court and which will be ascertained according to proof at trial.

22 75. PLAINTIFF is informed and believes, and based upon that information and
23 belief alleges, that DEFENDANTS purposely elected not to provide meal periods to their
24 hourly paid employees. DEFENDANTS acted intentionally, oppressively, and maliciously
25 toward PLAINTIFF, with a conscious disregard of his rights, or the consequences to
26 PLAINTIFF with the intent of depriving PLAINTIFF of property and legal rights and
27 otherwise causing PLAINTIFF injury.
28

1 76. PLAINTIFF seeks to recover meal-period compensation according to proof,
2 interest, all applicable statutory penalties against DEFENDANTS, in a sum as provided by
3 the CAL. LAB. CODE and/or other statutes, and reasonable attorneys' fees and costs.

4 **FOURTH CAUSE OF ACTION**

5 **FOR FAILURE TO PROVIDE REST PERIODS**

6 **[CAL. LAB. CODE §§ 226.7 and 512, and 8 CAL. CODE REGS. §§ 11050]**

7 **(By PLAINTIFF, and Against All DEFENDANTS)**

8 77. PLAINTIFF repeats and re-alleges paragraphs 1 through 76, inclusive, of this
9 Complaint and they are incorporated herein by this reference.

10 78. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS
11 were the joint employers of PLAINTIFF.

12 79. CAL. LAB. CODE §§ 226.7 and 8 CAL. CODE REGS. §§ 11050 (12)(A) provide
13 that employers shall authorize and permit all employees to take rest periods at the rate of
14 ten (10) minutes net rest time per four (4) hours or major fraction thereof, of work.

15 80. CAL. LAB. CODE §§ 226.7 and 8 CAL. CODE REGS. §§ 11050(12)(B) provide
16 that if an employer fails to provide an employee with rest periods in accordance with those
17 statutes, the employer shall pay the employee one (1) hour of pay at the employee's regular
18 rate of compensation for each workday that the rest period was not provided. The Wage
19 Order provides a separate remedy for violations of meal period requirements and violations
20 of rest period requirements" and section 226.7 allows recovery of up to two premium
21 payments per work day – one for each type of violation. (*United Parcel Service, Inc., v.*
22 *Superior Court* (2011) 196 Cal.App.4th 57, 69.)

23 81. At all times relevant hereto, PLAINTIFF worked more than four hours in a
24 workday for DEFENDANTS.

25 82. At all times relevant hereto, DEFENDANTS failed to provide rest periods to
26 PLAINTIFF as required by CAL. LAB. CODE §§ 226.7 and 8 CAL. CODE REGS. §§
27 11050(12)(A).
28

1 83. DEFENDANTS did not provide PLAINTIFF with a 10-minute net rest period
2 for every four (4) hours or major fraction thereof worked. Where rest periods were
3 provided, they were shorter in duration than 10 minutes, were interrupted, or were not
4 provided every four (4) hours or major fraction thereof worked. DEFENDANTS effectively
5 maintained control over PLAINTIFF during rest periods that were provided. On each day
6 where compliant ten (10) minute rest periods were not provided to PLAINTIFF,
7 DEFENDANTS failed to pay PLAINTIFF one additional hour of pay at his regular rates of
8 pay.

9 84. DEFENDANTS have intentionally and improperly denied rest periods to
10 PLAINTIFF, in violation of CAL. LAB. CODE §§ 226.7 and 512 and 8 CAL. CODE OF REGS.
11 §§ 11050(12)(A).

12 85. By virtue of the DEFENDANTS' unlawful failure to provide rest periods to the
13 PLAINTIFF, PLAINTIFF has suffered, and will continue to suffer, damages in amounts
14 that are presently unknown to PLAINTIFF, but which exceed the jurisdictional limits of the
15 court and which will be ascertained according to proof at trial.

16 86. PLAINTIFF is informed and believes, and based upon that information and
17 belief alleges, that DEFENDANTS knew or should have known that PLAINTIFF was
18 entitled to rest periods and purposely elected not to provide rest periods. DEFENDANTS
19 acted intentionally, oppressively, and maliciously toward PLAINTIFF, with a conscious
20 disregard of his rights, or the consequences to PLAINTIFF, with the intent of depriving
21 PLAINTIFF of property and legal rights and otherwise causing PLAINTIFF injury.

22 87. PLAINTIFF seeks to recover rest-period compensation according to proof,
23 interest, all applicable statutory penalties against DEFENDANTS, in a sum as provided by
24 the CAL. LAB. CODE and/or other statutes, and reasonable attorneys' fees and costs.

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FIFTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE ITEMIZED STATEMENTS AND MAINTAIN
ACCURATE PAYROLL RECORDS

[CAL. LAB. CODE §§ 226(a), 1174(d), and 1198]

(By PLAINTIFF, and Against All DEFENDANTS)

88. PLAINTIFF repeats and re-alleges paragraphs 1 through 87, inclusive, of this Complaint and they are incorporated herein by this reference.

89. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS were the joint employers of PLAINTIFF.

90. CAL. LAB. CODE § 226(a) requires employers to provide non-exempt employees with detailed and accurate wage statements (*i.e.* “pay stubs”). Specifically, the statute provides:

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (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 only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and total hours worked for each temporary services assignment.

91. For violations of CAL. LAB. CODE § 226, CAL. LAB. CODE § 226(e)(1) provides that an employee: (a) is entitled to recover the greater of all actual damages or minimum

1 statutory damages of \$50 for the initial pay period in which a violation occurs and \$100 for
2 each subsequent violation, up to a maximum of \$4,000, plus costs and attorneys' fees.

3 92. Additionally, CAL. LAB. CODE § 1174 provides in part, "Every person
4 employing labor in this state shall...(c) Keep a record showing the names and addresses of
5 all employees employed and the ages of all minors," and "(d) Keep, at a central location in
6 the state or at the plants or establishments at which employees are employed, payroll
7 records showing the hours worked daily by and the wages paid to, and the number of piece-
8 rate units earned by and any applicable piece rate paid to, employees employed at the
9 respective plants or establishments...."

10 93. CAL. LAB. CODE § 1174.5 provides that employers are subject to a \$500 civil
11 penalty if they fail to maintain accurate and complete records as required by section
12 1174(d).

13 94. DEFENDANTS intentionally failed to furnish to PLAINTIFF, upon the
14 payment of wages, itemized wage statements in conformity with CALIFORNIA LABOR CODE
15 § 226. The wage statements failed to accurately reflect PLAINTIFF's hours worked,
16 including overtime wages, minimum wages, missed meal periods and rest periods, and
17 failed to state the correct rate of pay.

18 95. PLAINTIFF was damaged by these failures because, among other things, the
19 failures led PLAINTIFF to believe that he was not entitled to be paid for all hours worked
20 even though he was so entitled, and because these failures hindered PLAINTIFF from
21 determining the amounts of wages owed to him.

22 96. PLAINTIFF is also informed and believes, and based upon that information
23 and belief alleges, that DEFENDANTS willfully failed to maintain accurate payroll records
24 showing the daily hours PLAINTIFF worked and the wages that should have been paid as a
25 result of failing to record hours that PLAINTIFF worked, as well as PLAINTIFF's a missed
26 meal periods and rest periods.

27 97. PLAINTIFF seeks to recover damages, penalties, and interest under CAL. LAB.
28 CODE §§ 226, 1174, and 1198, and reasonable attorneys' fees and costs.

SIXTH CAUSE OF ACTION
FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

[CAL. LAB. CODE §§ 2800 and 2802]

(By PLAINTIFF, and Against All DEFENDANTS)

98. PLAINTIFF repeats and re-alleges paragraphs 1 through 97, inclusive, of this Complaint and they are incorporated herein by this reference.

99. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS were the joint employers of PLAINTIFF.

100. CAL. LAB. CODE §§ 2800 and 2802 provide that an employer must reimburse employees for all necessary expenditures incurred in an employee's course and scope of employment.

101. PLAINTIFF incurred necessary business-related expenses and costs that were not fully reimbursed by DEFENDANTS.

102. Necessary unreimbursed business-related expenses include, but were not limited to PLAINTIFF's purchases and use of personal vehicles, personal cell phones, and personal cell phone plans for work purposes as required by DEFENDANTS.

103. DEFENDANTS maintained a policy of requiring their employees to use their personal vehicles, personal cell phones, and personal cell phone plans for work purposes. DEFENDANTS, however, did not reimburse PLAINTIFF for the cost of these necessary items.

104. DEFENDANTS have intentionally and willfully failed to fully reimburse PLAINTIFF for necessary business-related expenses and costs in violation of CAL. LAB. CODE §§ 2800 and 2802.

105. Under CAL. LAB. CODE §§ 2800 and 2802, PLAINTIFF seeks to recover his business-related expenses incurred during the course and scope of his employment with DEFENDANTS, plus interest and penalties. PLAINTIFF also seeks reasonable attorneys' fees and costs.

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1 **SEVENTH CAUSE OF ACTION**
2 **FOR VIOLATIONS OF THE CALIFORNA OCCUPATIONAL SAFETY AND**
3 **HEALTH ACT OF 1973**

4 **[CAL. LAB. CODE §§ 6300, *et seq.*]**

5 **(By PLAINTIFF, and Against All DEFENDANTS)**

6 106. PLAINTIFF repeats and re-alleges paragraphs 1 through 105, inclusive, of this
7 Complaint and they are incorporated herein by this reference.

8 107. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS
9 were the joint employers of PLAINTIFF.

10 108. CALIFORNIA LABOR CODE sections 6400(a), 6402, and 6404 state that every
11 employer shall furnish employment and a place of employment that is safe and healthful for
12 the employees and that no employer shall require, or permit any employee to go or be in
13 any employment or place of employment which is not safe and healthful or occupy or
14 maintain a place of employment that is not safe and healthful.

15 109. In order to ensure a safe and healthy working environment for employees,
16 CALIFORNIA LABOR CODE section 6401 states:

17 Every employer shall furnish and use safety devices and safeguards, and shall
18 adopt and use practices, means, methods, operations, and processes which are
19 reasonably adequate to render such employment and place of employment
20 safe and healthful. Every employer shall do every other thing reasonably
21 necessary to protect the life, safety, and health of employees.

22 110. CALIFORNIA LABOR CODE section 6401.7 requires that an employer establish,
23 implement, and maintain a written and effective injury-prevention program, correct unsafe and
24 unhealthy conditions and work practices in a timely manner based on the severity of the hazard,
25 and train employees on occupational hazards.

26 111. CALIFORNIA LABOR CODE section 6403 requires employers to: (a) To provide and
27 use safety devices and safeguards reasonably adequate to render the employment and place of
28 employment safe; (b) to adopt and use methods and processes reasonably adequate to render the

1 employment and place of employment safe; and, (c) to do every other thing reasonably
2 necessary to protect the life, safety, and health of employees.

3 112. CALIFORNIA CODE OF REGULATIONS section 3380(f), “Hazard assessment and
4 equipment selection,” requires an employer to assess the workplace to determine if hazards are
5 present, or are likely to be present, which necessitate the use of personal protective equipment
6 (PPE). If such hazards are present, or likely to be present, the employer shall: “(A) Select, and
7 have each affected employee use, the types of PPE that will protect the affected employee from
8 the hazards identified in the hazard assessment; (B) Communicate selection decisions to each
9 affected employee; and, (C) Select PPE that properly fits each affected employee.”

10 113. An employer is required to pay for personal protective equipment if the law
11 requires that the employer to provide the equipment. (*Bendix Forest Products Corporation v.*
12 *Division of Occupational Safety and Health* (1979) 25 Cal.3d 465, 473.)

13 114. DEFENDANTS forced PLAINTIFF to work in unsafe, and unhealthy conditions,
14 and without personal protective equipment, all in violation of California Occupational Safety
15 and Health Act of 1973 and the CALIFORNIA CODE OF REGULATIONS.

16 115. In the course of his duties at facilities that DEFENDANTS’ managed,
17 PLAINTIFF frequently entered into units of apartment buildings built before 1978 to
18 inspect broken or otherwise disturbed popcorn-textured ceilings. DEFENDANTS placed
19 PLAINTIFF at risk of exposure to asbestos, as DEFENDANTS never provided their
20 employees with proper personal protective gear when faced with disturbed popcorn-
21 textured ceilings in the apartment units. There was no signage outside anywhere on
22 DEFENDANTS’ premises warning PLAINTIFF of these hazardous conditions.

23 116. As evidenced by the conduct discussed, *supra*, DEFENDANTS clearly failed to
24 properly assess its workplace for hazardous conditions and implement a proper and effective
25 written injury-prevention program to protect PLAINTIFF from workplace hazards.

26 117. DEFENDANTS’ conduct flagrantly violated, among other laws, the California
27 Occupational Safety and Health Act of 1973 (CALIFORNIA LABOR CODE §§ 6300, *et. seq.*)
28 and the CALIFORNIA CODE OF REGULATIONS. The California Occupational Safety and

1 Health Act of 1973 requires employers to, inter alia, furnish employment and a place of
2 employment that is safe and healthful for the employees, to establish, implement, and
3 maintain a written and effective injury prevention program, to provide and use safety
4 devices and safeguards reasonably adequate to render the employment and place of
5 employment safe, and to assess the workplace to determine if hazards are present which
6 necessitate the use of personal protective equipment and then select, purchase, and have
7 each affected employee use, the types of personal protective equipment that will protect the
8 affected employee from the hazards identified in the hazard assessment.

9 118. DEFENDANTS' conduct flagrantly violated, among other laws, the California
10 Occupational Safety and Health Act of 1973 (CALIFORNIA LABOR CODE §§ 6300, *et. seq.*) and
11 the CALIFORNIA CODE OF REGULATIONS. PLAINTIFF requests recovery of civil penalties,
12 attorney's fees, costs, and interest thereon.

13 **EIGHTH CAUSE OF ACTION**
14 **FOR FAILURE TO PAY WAGES UPON TERMINATION OF EMPLOYMENT**

15 **[CAL. LAB. CODE § 203]**

16 **(By PLAINTIFF, and Against All DEFENDANTS)**

17 119. PLAINTIFF repeats and re-alleges and re-allege paragraphs 1 through 118,
18 inclusive, of this Complaint and they are incorporated herein by this reference.

19 120. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS
20 were the joint employers of PLAINTIFF.

21 121. CAL. LAB. CODE § 201(a) provides that a discharged employee's unpaid wages
22 are due and payable immediately. Under CAL. LAB. CODE § 202(a), when an employee not
23 having a written contract for a definite period is terminated, his or her wages become
24 immediately due and payable.

25 122. CAL. LAB. CODE § 203 (a) provides, "If an employer willfully fails to pay,
26 without abatement or reduction, in accordance with Sections [201 and 202], any wages of
27 an employee who is discharged or who quits, the wages of the employee shall continue as a
28

1 penalty from the due date thereof at the same rate until paid or until an action therefore is
2 commenced; but the wages shall not continue for more than 30 days.”

3 123. PLAINTIFF did not have a written contract for definite terms of employment.
4 DEFENDANTS discharged PLAINTIFF from his employment within the applicable statute
5 of limitations. DEFENDANTS willfully failed to pay PLAINTIFF the wages due to him—
6 without abatement or reduction.

7 124. Under CAL. LAB. CODE § 203, PLAINTIFF is entitled to one day’s wages for
8 each day he was not timely paid all wages due, up to a maximum of 30 days’ wages.
9 Because DEFENDANTS failed to pay overtime wages owed, minimum wages owed, meal
10 period wages owed, and rest period wages owed, PLAINTIFF seeks to recover 30 days’
11 wages, and applicable penalties. PLAINTIFF also seeks reasonable attorneys’ fees and
12 costs.

13 **NINTH CAUSE OF ACTION**

14 **FOR UNFAIR COMPETITION**

15 **[CAL. BUS. & PROF. CODE §§ 17200, *et seq.*]**

16 **(By PLAINTIFF, and Against All DEFENDANTS)**

17 125. PLAINTIFF repeats and re-alleges paragraphs 1 through 124, inclusive, of this
18 Complaint and they are incorporated herein by this reference.

19 126. Under the applicable IWC Wage Order 5-2001 (as amended), DEFENDANTS
20 were the joint employers of PLAINTIFF. DEFENDANTS are also a “person” as that term
21 is defined under CAL. BUS. & PROF. CODE § 17021.

22 127. CAL. BUS. & PROF. CODE section 17200 defines unfair competition as any
23 unlawful, unfair, or fraudulent business act or practice. At all times relevant hereto, by and
24 through the conduct described herein, DEFENDANTS have engaged in unfair and unlawful
25 practices by, among other violations, failing to pay overtime wages to PLAINTIFF, failing
26 to pay minimum wages to PLAINTIFF, failing to provide compliant meal and rest periods
27 to PLAINTIFF, failing to provide accurate wage statements to PLAINTIFF, failing to
28 provide PLAINTIFF with reimbursements for necessary business expenses incurred in the

1 course and scope of his employment, failing to provide PLAINTIFF with a healthy and safe
2 workplace compliant with the California Occupational Safety and Health Act of 1973, and
3 failing to provide wages due upon termination of employment to PLAINTIFF, under the
4 applicable CAL. LAB. CODE, and Industrial Welfare Commission requirements in violation
5 of CAL. BUS. & PROF. CODE § 17200 et seq., and have thereby deprived PLAINTIFF of
6 fundamental rights and privileges.

7 128. By and through the unfair and unlawful business practices described herein,
8 DEFENDANTS have obtained valuable property, money, and services from PLAINTIFF
9 and have deprived him of valuable rights and benefits guaranteed by law, all to the
10 detriment of PLAINTIFF.

11 129. All the acts described herein are violations of, among other things, the CAL.
12 LAB. CODE, CAL. CODE REGS., and Industrial Welfare Commission Wage Order 5; are
13 unlawful and in violation of public policy; and in addition are immoral, unethical,
14 oppressive, and unscrupulous, and thereby constitute unfair and unlawful business practices
15 in violation of CAL. BUS. & PROF. CODE §§ 17200 *et seq.*

16 130. PLAINTIFF is entitled to and seeks such relief as may be necessary to restore
17 to them the money and property that DEFENDANTS have acquired, or of which
18 PLAINTIFF has been deprived, by means of the above-described unfair and unlawful
19 business practices.

20 131. PLAINTIFF is further entitled to seek a declaration that the above-described
21 business practices are unfair and unlawful and that an injunctive relief should be issued
22 restraining DEFENDANTS from engaging in any of the above-described unfair and
23 unlawful business practices in the future.

24 132. PLAINTIFF has no plain, speedy, and/or adequate remedy at law to redress the
25 injuries that he has suffered as a consequence of DEFENDANTS' unfair and unlawful
26 business practices. As a result of the unfair and unlawful business practices described
27 above, PLAINTIFF has suffered and will continue to suffer irreparable harm unless
28 DEFENDANTS are restrained from continuing to engage in these unfair and unlawful

1 business practices. In addition, DEFENDANTS should be required to disgorge the unpaid
2 moneys to PLAINTIFF.

3 **TENTH CAUSE OF ACTION**
4 **FOR PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT**
5 **[California Labor Code § 2698, *et seq.*]**

6 **(By PLAINTIFF, On His Own Behalf, and As a Private Attorneys General for All**
7 **Aggrieved Employees, and Against All Defendants)**

8 133. PLAINTIFF repeats and re-alleges paragraphs 1 through 132, inclusive, of this
9 Complaint and they are incorporated herein by this reference.

10 134. CAL. LAB. CODE §§ 2698-2699, the Private Attorneys General Act of 2004
11 expressly establishes that any provision of the CAL. LAB. CODE which provides for a civil
12 penalty to be assessed and collected by the Labor and Workforce Development Agency
13 (“LWDA”), or any of its departments, divisions, commissions, boards, agencies or employees
14 for a violation of the CAL. LAB. CODE, may be recovered through a civil action brought by an
15 aggrieved employee on behalf of himself or herself, and other current or former employees.

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

20 136. PLAINTIFF and all persons employed by DEFENDANTS as hourly paid
21 employees, are “aggrieved employees” as defined by CAL. LAB. CODE § 2699 in that they are all
22 current or former employees of DEFENDANTS, and one or more of the alleged violations was
23 committed against them.

24 137. PLAINTIFF asserts all of his claims in this Complaint on his own behalf and on
25 behalf of all aggrieved employees in his capacity as a Private Attorney General, and seeks all
26 statutory penalties available under CAL. LAB. CODE §§ 2698-2699.

27 138. On December 29, 2020, JEREMIAH FREED gave written notice by certified mail
28 to and Defendant MASHCOLE PROPERTY MANAGEMENT, INC. of the specific code

provisions alleged to have been violated, as required by CAL. LAB. CODE § 2699.3. On the same date, JEREMIAH FREED submitted a “PAGA Claim Notice” to the Labor and Workforce Development Agency (“LWDA”) through its online portal. JEREMIAH FREED’s PAGA Notice Letter and LWDA Claim Submissions indicated that he, “as an aggrieved employee, on his own behalf and on behalf of other employees of Mashcole Property Management, Inc. and any other affiliated entity (“**Mashcole**”), intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under the CALIFORNIA LABOR CODE PRIVATE ATTORNEY GENERAL ACT OF 2004 (“the Act”) (CAL. LABOR CODE §2698 *et. seq.*).” The statutory waiting period for PLAINTIFF to add these allegations to the Complaint has expired. As a result, pursuant to CAL. LAB. CODE § 2699.3, PLAINTIFF, on behalf of himself and all aggrieved employees, may now commence a representative civil action pursuant to CAL. LAB. CODE § 2699 as the proxy of the State of California.

139. DEFENDANTS’ conduct, as alleged herein, violates numerous sections of the CAL. LAB. CODE , including, but not limited to, the following: :

- (a) Violations of CAL. LAB. CODE §§ 510, 1194, 1194.2, and 1198 for DEFENDANTS’ failure to pay overtime compensation and liquidated damages to PLAINTIFF, and other aggrieved employees;
- (b) Violations of CAL. LAB. CODE §§ 1182.12, 1194; 1194.2; 1197; 1197.1; and 1198 and 8 CAL. CODE REGS. §§ 11050 for DEFENDANTS’ failure to pay minimum wages and liquidated damages to PLAINTIFF, and other aggrieved employees;
- (c) Violations of CAL. LAB. CODE §§ 226.7 and 512, and 8 CAL. CODE REGS. §§ 11050 for DEFENDANTS’ failure to provide meal periods to PLAINTIFF, and other aggrieved employees;
- (d) Violations of CAL. LAB. CODE §§ 226.7 and 512, and 8 CAL. CODE REGS. §§ 11050 for DEFENDANTS’ failure to provide rest periods to PLAINTIFF, and other aggrieved employees;

- 1 (e) Violations of CAL. LAB. CODE §§ 226(a), 1174(d), and 1198 for
2 DEFENDANTS' failure to provide accurate itemized wage statements to
3 PLAINTIFF, and other aggrieved employees and to maintain accurate payroll
4 records for PLAINTIFF and other aggrieved employees;
- 5 (f) Violations of CAL. LAB. CODE §§ 2800 and 2802 for DEFENDANTS' failure to
6 reimburse necessary business expenses incurred in the course and scope of
7 PLAINTIFF's and other aggrieved employees' employment;
- 8 (g) Violations of CAL. LAB. CODE §§ 6300, et seq. for DEFENDANTS' failure to
9 provide a safe and healthy workplace in violation of the California Occupational
10 Safety and Health Act of 1973 to PLAINTIFF, and other aggrieved employees;
11 and,
- 12 (h) Violations of CAL. LAB. CODE § 203 for DEFENDANTS' failure to timely pay
13 wages to PLAINTIFF, and other aggrieved employees,

14 140. Therefore, PLAINTIFF, on his own behalf and on behalf of all aggrieved
15 employees, can and hereby does seeks recovery of all civil penalties as prescribed by the CAL.
16 LAB. CODE §§ 2698-2699, the Private Attorneys General Act of 2004, as the representative of
17 the State of California, for the illegal conduct perpetrated on PLAINTIFF, and all aggrieved
18 employees by DEFENDANTS.

19 **PRAYER**

20 WHEREFORE, PLAINTIFF, prays for judgment against each Defendant, jointly and
21 severally, as follows:

22 **1. ON THE FIRST CAUSE OF ACTION:**

- 23 (a) For overtime wage compensation and liquidated damages;
- 24 (b) For an award of interest, including prejudgment interest at the legal
25 rate; and,
- 26 (c) For statutory penalties, interest, costs of suit and attorneys' fees.

27 **2. ON THE SECOND CAUSE OF ACTION:**

- 28 (a) For minimum wage compensation and liquidated damages;

1 (b) For an award of interest, including prejudgment interest at the legal
2 rate; and,

3 (c) For statutory penalties, interest, costs of suit, and attorneys' fees.

4 **3. ON THE THIRD, FOURTH, FIFTH, SIXTH, AND EIGHTH CAUSES OF**
5 **ACTION:**

6 (a) For compensatory damages, including lost wages;

7 (b) For an award of interest, including prejudgment interest at the legal
8 rate; and,

9 (c) For statutory penalties, interest, costs of suit, and attorneys' fees.

10 **4. ON THE SEVENTH CAUSE OF ACTION:**

11 (a) For all unreimbursed business expenses and such general and special
12 damages as may be appropriate;

13 (b) For all actual, consequential and incidental losses and damages,
14 according to proof; and,

15 (c) For statutory penalties, interest, costs of suit, and attorneys' fees.

16 **5. ON THE NINTH CAUSE OF ACTION:**

17 (a) For restitution and disgorgement;

18 (b) For injunctive relief ordering the continuing unfair business acts and
19 practices to cease, or as the Court otherwise deems just and proper;
20 and,

21 (c) For other injunctive relief ordering DEFENDANTS to notify Plaintiff
22 and all aggrieved employees that they have not been paid the proper
23 amounts required in accordance with California law.

24 WHEREFORE, PLAINTIFF own his own behalf and on behalf of all aggrieved
25 employees, prays for judgment against each Defendant, jointly and severally, as follows:

26 **1. ON THE TENTH CAUSE OF ACTION:**

1 (a) That the Court declare, adjudge and decree that DEFENDANTS
2 violated the following CAL. LAB. CODE provisions as to PLAINTIFF
3 and/or other aggrieved employees:

- 4 1. CAL. LAB. CODE § 511 for DEFENDANTS' failure to properly
5 institute an alternative workweek schedule for PLAINTIFF,
6 and other aggrieved employees;
- 7 2. CAL. LAB. CODE §§ 510, 1194, 1194.2, and 1198 for
8 DEFENDANTS' failure to pay overtime compensation and
9 liquidated damages to PLAINTIFF, and other aggrieved
10 employees;
- 11 3. CAL. LAB. CODE §§ 1182.12, 1194; 1194.2; 1197; 1197.1; and
12 1198 and 8 CAL. CODE REGS. §§ 11050 for DEFENDANTS'
13 failure to pay minimum wages and liquidated damages to
14 PLAINTIFF, and other aggrieved employees;
- 15 4. CAL. LAB. CODE §§ 226.7 and 512, and 8 CAL. CODE REGS. §§
16 11050 for DEFENDANTS' failure to provide meal periods to
17 PLAINTIFF, and other aggrieved employees;
- 18 5. CAL. LAB. CODE §§ 226.7 and 512, and 8 CAL. CODE REGS. §§
19 11050 for DEFENDANTS' failure to provide rest periods to
20 PLAINTIFF, and other aggrieved employees;
- 21 6. CAL. LAB. CODE §§ 226(a), 1174(d), and 1198 for
22 DEFENDANTS' failure to provide accurate itemized wage
23 statements to PLAINTIFF, and other aggrieved employees and
24 to maintain accurate payroll records for PLAINTIFF and other
25 aggrieved employees;
- 26 7. CAL. LAB. CODE §§ 2800 and 2802 for DEFENDANTS' failure
27 to provide reimbursements of necessary business expenses
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1 incurred in the course and scope of PLAINTIFF’S and all
2 aggrieved employees’ employment;

3 8. CAL. LAB. CODE §§ 6300, *et seq.* for DEFENDANTS’ failure
4 to provide a safe and healthy workplace in violation of the
5 California Occupational Safety and Health Act of 1973 to
6 PLAINTIFF, and other aggrieved employees; and,

7 9. CAL. LAB. CODE § 203 for DEFENDANTS’ failure to timely
8 pay wages to PLAINTIFF, and other aggrieved employees,

9 (b) For civil penalties pursuant to CAL. LAB. CODE §§ 210, 226.3, 256,
10 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of CAL.
11 LAB. CODE §§ 201, 202, 203, 226, 226.7, 227.3, 510, 511, 512, 558,
12 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 6300, 6400, 6401.7,
13 6402, 6403 6404;

14 (c) For attorneys’ fees and costs pursuant to California Labor Code
15 section 2699(g)(1), and any and all other relevant statutes, for
16 Defendant’s violations of CAL. LAB. CODE §§ 201, 202, 203, 226,
17 226.7, 227.3, 510, 511, 512, 558, 1174, 1182.12, 1194, 1194.2, 1197,
18 1197.1, 1198, 6300, 6400, 6401.7, 6402, 6403 6404;

19 (d) For pre-judgment and post-judgment interest as provided by law; and

20 (e) For such other and further relief as the Court may deem equitable and
21 appropriate.

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