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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

LUCIANO JIMENEZ, as an individual, and on
behalf of all others similarly situated,

Plaintiff,

vs.

ARCADIA CHAIR COMPANY, INC., a
California corporation; and DOES 1 through
100,

Defendants.

Case No.: 30-2020-01175920-CU-OE-CXC

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

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

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Luciano Jimenez (“Plaintiff”), on behalf of himself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint
3 (“Complaint”) against Defendant Arcadia Chair Company, Inc., a California corporation, and
4 DOES 1 to 100, inclusive (collectively, “Defendants”), and on information and belief alleges as
5 follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 Complaint for recovery of unpaid wages and penalties under California Business & Professions
9 Code § 17200 *et. seq.*, Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194,
10 1194.2, 1197, 1198, 2698 *et. seq.*, and Industrial Welfare Commission Wage Order No. 1 (“Wage
11 Order 1”), in addition to seeking injunctive relief, declaratory relief, and restitution.

12 2. This Complaint is brought pursuant to California Code of Civil Procedure § 382.
13 The monetary damages and restitution sought by Plaintiff exceed the minimal jurisdictional limits
14 of the Superior Court and will be established according to proof at trial.

15 3. This Court has jurisdiction over Defendants because, upon information and belief,
16 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
17 themselves to the California market so as to render the exercise of jurisdiction over them by the
18 California courts consistent with the traditional notions of fair play and substantial justice.

19 **VENUE**

20 4. Venue as to each Defendant is proper in this judicial district pursuant to California
21 Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions
22 complained of hereon occurred in Orange County. Defendants own, maintain offices, transact
23 business, have agent(s) within Orange County, and/or otherwise are found within Orange County,
24 and Defendants are within the jurisdiction of this Court for purposes of service of process.

25 **PARTIES**

26 5. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
27 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
28 the filing of the Complaint in this action and within the statute of limitations periods applicable

1 to each cause of action pled herein, Plaintiff was employed by Defendants. Plaintiff was, and is,
2 a victim of Defendants' policies and/or practices complained of herein, lost money and/or
3 property, and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 226, 226.7,
4 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198; and 2698 *et seq.*, Business & Professions
5 Code § 17200 *et seq.*; and Wage Order 1, which sets employment standards for the manufacturing
6 industry.

7 6. Plaintiff is informed and believes, and based thereon alleges, that during the four
8 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
9 continue to do) business by manufacturing chairs, tables, and other furniture. Defendants
10 employed Plaintiff in Orange County and the state of California and, therefore, were (and are)
11 doing business in Orange County and the State of California.

12 7. The true names, identities and capacities, whether individual, corporate, associate
13 or otherwise, of Defendants Does 1 through 100 are unknown to Plaintiff at this time, who
14 therefore sues said defendants by such fictitious names pursuant to California Code of Civil
15 Procedure § 474. Upon ascertaining the true and correct names, titles, capacities and/or identities
16 of the defendants designated herein as a Doe, Plaintiff will further amend this Complaint
17 accordingly.

18 8. Plaintiff is informed and believes, and thereon alleges, that all of the Defendants
19 herein, however designated, whether by real or fictitious name, were and are in some manner
20 responsible for the events, happenings, occurrences and instrumentalities upon and about which
21 complaint is hereinafter made.

22 9. Plaintiff is further informed and believes, and thereon alleges, that each of the
23 Defendants herein, whether designated by real or fictitious names, are, and at all times relevant
24 hereto, were, the agent, servant, employee and hireling of each of the co-Defendants and in doing
25 the things and acts herein alleged and complained of or in failing to do that which they should
26 have done, were acting within the course and scope of such employment, agency and hiring with
27 the full knowledge, consent, approval and ratification of each of the other co-Defendants.

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

5 **GENERAL FACTUAL ALLEGATIONS**

6 11. Plaintiff was employed by Defendants as a non-exempt employee from
7 approximately January 2018 to on or about October 29, 2020 at Defendants' La Palma facility.
8 Plaintiff's job duties included assembling chair-backs and working on the finishing line.

9 12. During at least a portion of the relevant time period, Defendants utilized a
10 timekeeping system which resulted in Plaintiff and other non-exempt employees not being
11 compensated for all hours actually worked, by rounding, time-shaving, or otherwise. Specifically,
12 although Plaintiff and other non-exempt employees recorded their hours worked using a
13 fingerprint scanner that recorded their hours worked to the minute, Defendants regularly,
14 systematically, and impermissibly rounded, shaved, or otherwise altered the time worked by
15 Plaintiff and other non-exempt employees in Defendants' favor, such that the time
16 shaving/rounding practice utilized by Defendants was not even-handed over time and would
17 round and shave in Defendants' favor such that Plaintiff and other non-exempt employees were
18 routinely underpaid for their time worked. Due to Defendants' timekeeping policies and practices
19 that fail to compensate for all hours worked, Plaintiff and other non-exempt employees were
20 deprived of all required minimum wages. Further, on occasions when Plaintiff and other non-
21 exempt employees worked over eight hours in a day and/or forty hours in a workweek, this
22 process of time-shaving or rounding also deprived them of all overtime wages owed. Based on
23 the foregoing, Plaintiff and other non-exempt employees were not compensated for all required
24 minimum and overtime wages.

25 13. Plaintiff and other non-exempt employees also were not provided by Defendants
26 with legally compliant meal periods. Specifically, although Defendants utilized a bell to announce
27 the beginning and end of 30-minute meal periods, Defendants also required Plaintiff and other
28 non-exempt employees to clock out for meal periods. Because there were only two timeclocks

1 and hundreds of employees were required to clock out for lunch at the same time, employees
2 would routinely spend approximately 3-4 minutes of their “meal period” walking to and lining up
3 at the timeclocks and waiting for their turn to clock out, resulting in off-duty meal periods that
4 were less than 30 minutes. In addition, at the end of meal periods, Plaintiff’s and other non-
5 exempt employees’ meal periods were regularly cut short by an additional approximately two (2)
6 minutes because a warning bell would ring to tell employees to return to work on or about twenty-
7 eight (28) minutes after the bell signifying the beginning of the meal period, and again at the 30-
8 minute mark, by which time employees were required to back at their work stations, ready to
9 work. Thus, employees spent the last 2 minutes of their meal period returning to their work
10 stations. Further, when Plaintiff and other non-exempt employees worked shifts in excess of 10.0
11 hours, Defendants did not provide a second duty-free 30-minute meal period. On occasions when
12 Plaintiff did not receive all legally compliant meal periods, Defendants did not pay the meal
13 period premium wages required by Labor Code § 226.7. Upon information and belief, during at
14 least a portion of the relevant time period, Defendants did not maintain any pay code for the
15 payment of meal period premiums when they failed to provide Plaintiff and other non-exempt
16 employees with legally compliant meal periods.

17 14. Throughout Plaintiff’s employment with Defendants, Plaintiff and other non-
18 exempt employees were not authorized and permitted to take all required rest periods, as
19 Defendants’ rest period policies/practices fail to authorize and permit all rest periods for every
20 four hours worked, or major fraction thereof. Similar to meal periods, Plaintiff’s and other non-
21 exempt employees’ rest periods are regularly cut short by approximately two (2) minutes because
22 a warning bell rings to tell employees to return to work on or about eight (8) minutes into their
23 rest periods. In addition, on occasions when Plaintiff and other non-exempt employees worked
24 shifts in excess of 10.0 hours, Defendants did not provide a third rest period. Defendants also
25 would unlawfully combine rest periods, such that, for example, employees would receive one 20-
26 minute rest period rather than two 10-minute rest periods. Further, on those occasions when
27 Plaintiff was not authorized and permitted to take all legally-compliant rest periods to which he
28 was entitled, Defendants failed to compensate Plaintiff with the required rest period premium for

each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time period, Defendants did not maintain any pay code for the payment of rest period premiums when they failed to authorize and permit Plaintiff and other non-exempt employees all legally compliant rest periods.

15. As a result of Defendants' failure to pay all overtime and minimum wages, and meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees.

16. As a further result of Defendants' failure to pay all overtime wages, minimum wages, and meal and rest period premium wages, Defendants failed to pay all wages to Plaintiff and other formerly-employed non-exempt employees at the separation of their employment.

17. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of 180 days or more were tolled for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the statutes of limitations for each of Plaintiff's claims alleged herein were tolled for a period of 178 days during the aforementioned tolling period.

CLASS ACTION ALLEGATIONS

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

- a. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California, whether employed by Defendants directly or through a staffing agency, who were subject to Defendants' timekeeping practices and worked in excess of 8 hours in a work day and/or in excess of 40 hours in a work week, during the four years plus 178 days preceding the filing of this action through the present.
- b. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California, whether employed by Defendants directly or through a staffing agency, who were subject to Defendants' timekeeping practices during the four years plus 178 days preceding the filing of this action through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California, whether employed by Defendants directly or through a

staffing agency, who worked at least one shift in excess of 5.0 hours and/or worked at least one shift in excess of 10.0 hours, during the four years plus 178 days preceding the filing of this action through the present.

d. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California, whether employed by Defendants directly or through a staffing agency, who worked at least one shift in excess of 3.5 hours, during the four years plus 178 days preceding the filing of this action through the present.

e. The Wage Statement Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class and/or Rest Period Class, who received a wage statement during the one year plus 178 days preceding the filing of this lawsuit through the present.

f. The Waiting Time Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class whose employment with Defendants ended during the three years plus 178 days preceding the filing of this action through the present.

19. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes and subclasses are unknown to Plaintiff at this time; however, it is estimated that the Class Members number greater than one hundred (100) individuals as to each Class. The identity of such membership is readily ascertainable via inspection of Defendants' records.

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

i. Whether Defendants violated the applicable Labor Code provisions including, but not limited to §§ 510 and 1194, by requiring overtime work and not paying for said work according to the overtime laws of the State of California;

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- ii. Whether Plaintiff and members of the Minimum Wage Class were compensated for all hours worked;
- iii. Whether Defendants' meal period policies/practices have failed to provide Meal Period Class members of all legally required meal periods;
- iv. Whether Defendants' rest period policies/practices have failed to authorize and permit Rest Period Class members all legally required rest periods;
- v. Whether Defendants provided meal or rest period premium payments for non-compliant meal and/or rest periods;
- vi. Whether Defendants issued accurate itemized wage statements to Wage Statement Class members pursuant to Labor Code § 226; and
- vii. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of their separation of employment.

21. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual Class members. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual Class member, such as their failure to pay overtime wages, failure to pay minimum wages, failure to provide lawful meal and/or rest periods, failure to provide accurate itemized wage statements and failure to pay all final wages. As such, these common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

22. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Defendants employed Plaintiff in California as a non-exempt employee during the time periods relevant to each of the claims pled herein. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all overtime wages for all hours worked, deprived of minimum wages for all hours worked, was not provided with all required meal periods, was not authorized and permitted all required rest periods, did not receive premium pay for meal and rest period violations, was not furnished with accurate itemized wage statements, and did not receive all earned wages at the termination of his employment.

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

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

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1 minimum wages for all hours worked, and provide a private right of action for the failure to pay
2 all minimum wage compensation for all work performed.

3 31. At all relevant times, Defendants were required to compensate Plaintiff and the
4 Minimum Wage Class members for all hours worked pursuant to California Labor Code §§
5 1182.12, 1194, 1197 and 1198, and Wage Order 1. Wage Order 1, Section 4 requires an employer
6 to pay to every employee on the established payday for the period involved not less than the
7 applicable minimum wage for all hours worked in the payroll period. Defendants caused Plaintiff
8 and Minimum Wage Class members to work hours in a workweek but did not properly pay
9 Plaintiff and the Minimum Wage Class members at least minimum wages for such hours.

10 32. At all times relevant herein, Defendants lacked good faith and had no reasonable
11 grounds for believing that their practices in failing to pay all minimum wages owed at the
12 applicable rate was not a violation of any provision of the Labor Code relating to minimum wage,
13 or an order of the Industrial Welfare Commission. Defendants, in addition to owing minimum
14 wages to Plaintiff and the members of the Minimum Wage Class, also owe liquidated damages in
15 an amount equal to the wages unlawfully unpaid, and interest thereon, pursuant to Labor Code §
16 1194.2.

17 33. The foregoing practices and policies are unlawful and create entitlement to
18 recovery by Plaintiff and the Minimum Wage Class members in a civil action for the unpaid
19 amount of minimum wages owing, including interest thereon, as well as statutory penalties,
20 liquidated damages, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code
21 §§ 204, 558, 1182.12, 1194, 1194.2, 1197, and 1198, Wage Order 1, Code of Civil Procedure §
22 1021.5, and Civil Code §§ 3287(b) and 3289.

23 **THIRD CAUSE OF ACTION**

24 **MEAL PERIOD VIOLATIONS**

25 **(AGAINST ALL DEFENDANTS)**

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

27 35. As alleged herein, Defendants failed in their affirmative obligation to provide
28 Plaintiff and Meal Period Class members with all legally-compliant meal periods in accordance

1 with the mandates of the California Labor Code and Wage Order 1, § 11. Despite Defendants'
2 violations, Defendants did not pay an additional hour of pay to Plaintiff at his respective regular
3 rate of pay, in accordance with California Labor Code §§ 226.7, and 512.

4 36. As a result, Defendants are responsible for paying premium compensation for meal
5 period violations including interest thereon, as well as statutory penalties, civil penalties, and
6 costs of suit, pursuant to Labor Code §§ 218.6, 226.7, 512, and 558, Wage Order 6, and Civil
7 Code §§ 3287(b) and 3289.

8 **FOURTH CAUSE OF ACTION**

9 **REST PERIOD VIOLATIONS**

10 **(AGAINST ALL DEFENDANTS)**

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

12 38. Wage Order 1, § 12 and California Labor Code §§ 226.7 and 516 establish the
13 right of employees to be authorized and permitted to take a paid rest period of at least ten (10)
14 minutes net rest time for each four (4) hour period worked, or major fraction thereof. This also
15 includes a third rest period for shifts in excess of 10.0 hours.

16 39. As alleged herein, Plaintiff and Rest Period Class members were not authorized to
17 take all required rest periods as a non-exempt employee.

18 40. The foregoing violations create an entitlement to recovery by Plaintiff and Rest
19 Period Class members in a civil action for the unpaid amount of rest period premiums owing,
20 including interest thereon, as well as statutory penalties, civil penalties, and costs of suit according
21 to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

22 **FIFTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

24 **(AGAINST ALL DEFENDANTS)**

25 41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

26 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiff
28 and Wage Statement Class members with accurate, itemized wage statements that included,

among other requirements, all hours worked, all gross wages and net wages earned, in violation of Labor Code §226(a).

43. Defendants' failure to furnish Plaintiff and Wage Statement Class members with complete and accurate, itemized wage statements resulted in injury, as said failures led to them not being paid all wages due, and deprived them of the information necessary to identify discrepancies in Defendants' reported data.

44. Defendants' failures create an entitlement to Plaintiff and Wage Statement Class members in a civil action for damages and/or penalties pursuant to Labor Code § 226, including statutory penalties civil penalties, reasonable attorneys' fees, and costs according to suit pursuant to Labor Code § 226 *et seq.*

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

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

46. This cause of action is brought pursuant to Cal. Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

47. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including unpaid overtime and minimum wages as well as unpaid meal and rest period premium wages.

48. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Cal. Labor Code §§ 201-203.

49. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of daily wages up to thirty days from the time the wages were due.

50. Plaintiff and members of the Waiting Time Class are entitled to compensation pursuant to Cal. Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

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

52. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 et seq., by failing to provide all required overtime wages for overtime hours worked, failing to provide all required minimum wages for regular hours worked, failing to provide all required meal periods, failing to authorize and permit all required rest periods, failing to pay meal and rest period premium wages, failing to furnish accurate, itemized wage statements and failing to pay all final wages.

53. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff of compensation to which he is legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

54. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

55. The acts complained of herein occurred within the last four years plus 178 days immediately preceding the filing of this action.

56. Plaintiff was compelled to retain the services of counsel to file this court action to protect his and Class members' interests, to obtain restitution, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

EIGHTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

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

58. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, is an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226, and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay Plaintiff and other aggrieved employees all overtime and/or double-time compensation earned in violation Labor Code §§ 204, 510, 558, 1194, and 1198;

- b. Failing to pay Plaintiff and other aggrieved at least the statutory minimum wage for all hours worked in violation of Labor Code §§ 204, 558, 1182.12, 1194, 1194.2, 1197 and 1198;
- c. Failing to provide all legally required meal periods and by failing to pay meal period premiums to Plaintiff and other aggrieved employees in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods and by failing to pay rest period premiums to Plaintiff and other aggrieved employees in violation of Labor Code §§ 226.7, 516, 558 and 1198;
- e. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages due to Plaintiff and other aggrieved former employees in violation of Labor Code §§ 201, 202, and 203;
- g. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204; and
- h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174.

59. On or about December 24, 2020, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 58 (a)-(h). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

60. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all current and former non-

1 exempt employees who worked for Defendants in California at any time between 178 days prior
2 to December 24, 2019 and the present.

3 61. Plaintiff was compelled to retain the services of counsel to file this court action to
4 protect his interest and the interests of other aggrieved employees, and to assess and collect the
5 civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which
6 he is entitled to recover under California Labor Code § 2699.

7 **PRAYER**

8 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

9 1. Upon the First Cause of Action, for compensatory, consequential, general, and
10 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

11 2. Upon the Second Cause of Action, for compensatory, consequential, general and
12 special damages and liquidated damages according to proof pursuant to Labor Code §§ 204, 558,
13 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198;

14 3. Upon the Third Cause of Action, for compensatory, consequential, general and
15 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

16 4. Upon the Fourth Cause of Action, for compensatory, consequential, general and
17 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

18 5. Upon the Fifth Cause of Action, for statutory wage statement penalties pursuant
19 to Labor Code § 226;

20 6. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
21 Labor Code § 203;

22 7. Upon the Seventh Cause of Action, for restitution to Plaintiff and Class members
23 of all money and/or property unlawfully acquired by Defendants by means of any acts or practices
24 declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

25 8. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
26 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
27 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
28 each failure to pay each employee and \$200.00 for each subsequent violation or willful or

1 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
2 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
3 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
4 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
5 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226, and
6 \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay
7 period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per
8 employee per pay period for those violations of the Labor Code for which no civil penalty is
9 specifically provided, based on the violations of Labor Code sections identified in Paragraph 58
10 (a)-(h) above.

11 9. Prejudgment interest on all due and unpaid wages pursuant to California Labor
12 Code § 218.6 and Civil Code §§ 3287 and 3289;

13 On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226, 1194,
14 and 2699(g), Code of Civil Procedure § 1021.5, and all other applicable statutes; and

15 10. For such other and further relief the Court may deem just and proper.

16
17 Dated: March 1, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

18
19 By: _____

Paul K. Haines
Attorneys for Plaintiff

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22 **DEMAND FOR JURY TRIAL**

23 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

24
25 Dated: March 1, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

26
27 By: _____

Paul K. Haines
Attorneys for Plaintiff