

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Michelle Williams Court

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MELVIN PERDOMO

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

MELVIN PERDOMO, an individual,

Plaintiff,

v.

DNSG CROSS, LLC, a California Limited
Liability Company; VICTOR VASQUEZ, an
Individual; SHADI GENDI, an Individual; and
DOES 1 through 20, inclusive,

Defendants.

Case No. **21STCV46132**

COMPLAINT FOR DAMAGES FOR:

- 1. RETALIATION (CAL. LABOR CODE § 98.6);**
- 2. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;**
- 3. MISCLASSIFICATION OF EMPLOYEE AS “INDEPENDENT CONTRACTOR”;**
- 4. FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197)**
- 5. FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§ 510, 1194);**
- 6. FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§ 226.7, 512);**
- 7. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§ 226, ET SEQ.);**

- 1 8. WAITING TIME PENALTIES (CAL.
2 LABOR CODE §§ 201-203);
3 9. PRIVATE ATTORNEY GENERAL ACT
4 (CAL. LABOR CODE § 2699, ET SEQ
5 10. FAILURE TO PERMIT INSPECTION OF
6 PERSONNEL AND PAYROLL RECORDS
7 (CAL. LABOR CODE §§ 226, 1198.5);
8 11. UNFAIR COMPETITION (CAL. BUS. &
9 PROF. §§ 17200, ET SEQ.)

10 DEMAND OVER \$25,000

11 [DEMAND FOR JURY TRIAL]
12
13

14 Plaintiff, MELVIN PERDOMO (“Plaintiff”) brings this case against Defendants, DNSG
15 CROSS, LLC; VICTOR VASQUEZ, an Individual; SHADI GENDI, an Individual; and DOES 1-20,
16 inclusive (“Defendants”) for relief from Defendants’ violations of Plaintiff’s workplace rights. Plaintiff
17 brings claims under the California Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
18 No. 16-2001, and California common law. Plaintiff seeks damages including restitution of all wages,
19 benefits, and interest to which Plaintiff is entitled, civil penalties, and compensation for emotional
20 distress. Plaintiff additionally seeks declaratory judgment, punitive damages, and reasonable attorneys’
21 fees, costs, and expenses associated with this action.

22 **VENUE & JURISDICTION**

23 1. This Court is the proper court, and this action is properly filed in Los Angeles County,
24 because Defendants’ obligations and liability arise therein, because Defendants maintain offices and
25 transact business within Los Angeles County, and because the work that is the subject of this action was
26 performed by Plaintiff in Los Angeles County.
27
28

THE PARTIES

2. Plaintiff, MELVIN PERDOMO, is and at all times relevant hereto was a resident of the State of California, residing in the County of Los Angeles.

3. Plaintiff was at all relevant times a non-exempt employee subject to the protections of the California Labor Code and IWC Wage Order No. 16-2001.

4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant DNSG CROSS, LLC (hereinafter referred to as "DNSG") was and is a Limited Liability Company doing business at 333 Washington Boulevard, Suite 642, in the County of Los Angeles, State of California.

5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant VICTOR VASQUEZ ("VASQUEZ") is, and at all relevant times was a resident of California and was employed by DNSG, at its work location in the County of Los Angeles, California. At all relevant times, VASQUEZ maintained the position of Supervisor and had authority over Plaintiff.

6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant SHADI GENDI ("GENDI") is, and at all relevant times was a resident of California and the sole Manager of DNSG, and that his managerial authority gave him control over Plaintiff's work.

7. DNSG, VASQUEZ, GENDI, and DOES 1-20 are collectively referred to as "Defendants" or "Employers" interchangeably.

8. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Employers owned and operated a real estate investment company that handled at least some of its own continuously ongoing repair, renovation, and remodeling needs.

9. At all times relevant herein, DNSG, VASQUEZ, GENDI, and DOES 1-20 were Plaintiff's employers, joint employers and/or special employers within the meaning of Government Code §§ 12926, subdivision (d), 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more persons and are therefore subject to the jurisdiction of this Court.

10. At all times relevant herein, DNSG, VASQUEZ, GENDI, and DOES 1-20 were Plaintiff's employers, joint employers and/or special employers within the meaning of the Labor Code and IWC

1 Wage Order No. 16-2001 and are each an “employer or other person acting on behalf of an employer” as
2 such term is used in Labor Code section 558, 558.1, and or 1197.1 and liable to Plaintiff on that basis.

3 11. Plaintiff is informed and believes, and thereon alleges, that at all times relevant to this
4 action, VASQUEZ, GENDI, and/or DOES 1-20 was a manager and/or a supervisor of DNSG, acting as
5 managing agents for DNSG; VASQUEZ, GENDI, and/or DOES 1-20 was acting within the course and
6 scope of their employment and on behalf of DNSG such that their acts or omissions are imputed to DNSG
7 under the doctrine of *respondeat superior*, or alternatively, at all times relevant to this action, DNSG
8 cloaked VASQUEZ and/or DOES 1-20 with the appearance of actual authority, such that Plaintiff was
9 justified in relying thereon, and therefore his acts or omissions are imputed to DNSG under the doctrine
10 of *respondeat superior*.

11 12. The true names and capacities, whether individual, corporate, associate, or otherwise, of
12 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
13 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
14 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
15 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
16 Defendants is responsible for the wrongful acts alleged herein and is therefore liable to Plaintiff as alleged
17 hereinafter.

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

24 14. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
25 of them, including Defendants named as DOES 1-20, acted in concert with one another to commit the
26 wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
27 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code §
28 12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and

1 each of them, including Defendants named as DOES 1-20, and each of them, formed and executed a
2 conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with
3 all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and actually
4 causing Plaintiff harm.

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

8 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

9 16. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
10 of interest and ownership between DNSG, GENDI, and DOES 1-20 that the individuality and
11 separateness of defendants have ceased to exist.

12 17. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
13 purported corporate existence, DNSG, GENDI, and DOES 1-20 are, in reality, one and the same,
14 including, but not limited to because:

15 a. DNSG is completely dominated and controlled by GENDI and/or DOES 1-20, who
16 personally committed the frauds and violated the laws as set forth in this complaint, and who have hidden
17 and currently hide behind Defendant LLC to perpetrate frauds, circumvent statutes, or accomplish some
18 other wrongful or inequitable purpose.

19 b. DNSG, GENDI, and DOES 1-20 derive actual and significant monetary benefits
20 by and through one another's unlawful conduct, and by using one another as the funding source for their
21 own personal expenditures.

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

25 d. DNSG does not comply with all requisite corporate formalities to maintain a legal
26 and separate corporate existence.

27 e. The business affairs of DNSG, GENDI, and DOES 1-20 are, and at all times
28 relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same

1 are in inextricable confusion. DNSG is, and at all times relevant hereto was, used by GENDI and DOES
2 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and were, the
3 alter ego of one another and DOES 1-20. The recognition of the separate existence of Defendants would
4 not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff
5 for violations of the Government Code and other statutory violations. The corporate existence of DNSG
6 on the one hand, and GENDI and DOES 1-20 on another, should be disregarded in equity and for the
7 ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

8 18. Accordingly, DNSG constitutes the alter ego of GENDI and/or DOES 1-20, and the fiction
9 of their separate corporate existence must be disregarded.

10 19. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
11 thereon alleges that DNSG, GENDI, and DOES 1-20 are Plaintiff's joint employers by virtue of a joint
12 enterprise, and that Plaintiff was an employee of DNSG, GENDI, and DOES 1-20. Plaintiff performed
13 services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all
14 Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the manner in
15 which Defendants' business was and is conducted.

16 20. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
17 between DNSG, GENDI, Does 1-20, or any of them, (1) there is an express or implied agreement of
18 assumption pursuant to which DNSG and/or DOES 1-20 agreed to be liable for the debts of the other
19 Defendants, (2) the transaction between DNSG, GENDI, and/or DOES 1-20 and the other Defendants
20 amounts to a consolidation or merger of the two or more corporate entities (3) DNSG, GENDI, and/or
21 DOES 1-20 are a mere continuation of the other Defendants, or (4) the transfer of assets to DNSG,
22 GENDI, and/or DOES 1-20 is for the fraudulent purpose of escaping liability for Defendants' debts.
23 Accordingly, DNSG, GENDI, and/or DOES 1-20 are the successors of one or more of the other
24 Defendants and are liable on that basis.

25 **FACTUAL ALLEGATIONS**

26 21. Plaintiff is informed and believes, and based thereupon alleges, that during the relevant
27 statutory period, Defendants owned and operated various real estate investment properties in and around
28 Los Angeles.

1 22. In or around August 2019, VASQUEZ hired Plaintiff to work as a laborer for Defendants.
2 Plaintiff's duties primarily consisted of tile work, laminate, dry wall, & painting. Plaintiff also did fence
3 construction and assorted other odds and ends jobs associated with renovating and remodeling of units
4 located within Defendants' properties.

5 23. Upon information and belief, Plaintiff alleges that he worked for Defendants at no fewer
6 than six properties which they collectively own and/or operate. The addresses Plaintiff worked at include,
7 but are not limited to: 11711 Gale Avenue, Hawthorne, CA 90250 (10 units); 11841 Gale Avenue,
8 Hawthorne, CA 90250 (5 units); 2120 West 157th Street, Gardena, CA 90249 (5 units); 1032 Martin
9 Luther King Jr. Avenue, Long Beach, CA 90813 (5 units); 6616 West 82nd Street, Los Angeles, CA 90045
10 (single family home apparently used as DNSG office space); and 520 N. Market Street, Inglewood, CA
11 90302.

12 24. Plaintiff is informed and believes, and based thereupon alleges that Defendants employed
13 himself, VASQUEZ, a fellow laborer whose nickname is Güero, and others who worked in construction,
14 administrative, janitorial, landscaping, and/or other capacities for Defendants' businesses and/or
15 properties.

16 25. VASQUEZ and Güero would consume beer daily during the workday and would chide
17 Plaintiff for always declining to drink. VASQUEZ and Güero broke a window on a unit on one occasion
18 after having consumed numerous beers. The two would typically drink between 2 and 6 beers each during
19 a workday. On occasion Plaintiff would tell VASQUEZ and/or Güero they should not drink during work,
20 because of the safety hazard it posed.

21 26. Defendants paid Plaintiff based on an hourly wage calculation derived from hours it
22 recorded for him. Initially, Plaintiff was paid \$15 an hour, then he was granted a raise to \$17 an hour in
23 or around September 2020, after asking VASQUEZ numerous times for a raise.

24 27. Beginning on Plaintiff's date of hire in or around August 2019, for approximately one year
25 thereafter, Plaintiff's fixed schedule was five days per week, Monday through Friday, from 8:00 a.m. to
26 5:00 p.m., with 30 – 45 minutes for lunch each day, depending on the workload.

27 28. After Plaintiff was granted a raise, during Plaintiff's approximately last four months of
28 work, from September 2020 to December 2020, Plaintiff's schedule changed in that he received far less

1 consistent work. Instead of regularly working Monday – Friday, Plaintiff would work very sporadically,
2 and sometimes go days or even weeks without working.

3 29. Upon information and belief, Güero continued to work consistently Monday - Friday
4 during the time Plaintiff was no longer working such a regular schedule, and Plaintiff alleges the reason
5 for the reduction in days was that he asked for and was granted a raise, and because he refused to drink
6 on the job with VASQUEZ and Güero, and advised the two of them not to drink, either.

7 30. During Plaintiff's approximately last two months of work, Plaintiff stopped taking
8 lunches, and began ending his workday at around 4:15 p.m.

9 31. Approximately once every two months, Employers asked Plaintiff to work on Saturdays,
10 for which he never received overtime premium wages, despite almost always having worked 40 hours in
11 the preceding workweek. Saturday wages were paid at the normal hourly wage rate.

12 32. All, or nearly all of Plaintiff's unpaid hours each week were for hours Plaintiff worked in
13 excess of eight hours a day. Plaintiff worked approximately 1.25 unpaid hours each week, not including
14 the Saturdays he worked. For that time Plaintiff received no wages at all: not the overtime premium wages
15 to which he was entitled, Plaintiff's normal hourly wage rate, or even the requisite minimum wage.

16 33. Throughout Plaintiff's employment, Plaintiff was not advised of, or permitted to take,
17 Plaintiff's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion
18 thereof.

19 34. Plaintiff was a full-time, non-exempt employee, and performed all of Plaintiff's job duties
20 satisfactorily before Plaintiff was wrongfully terminated on or about December 18, 2020.

21 35. Plaintiff was paid every other Friday, until Friday, December 18, 2020, when VASQUEZ
22 refused to pay Plaintiff the outstanding wages he was owed when asked to do so by Plaintiff.

23 36. Except for the first two weeks he worked for Defendants, for which he was paid cash, and
24 beginning during the pay period right after Plaintiff provided Defendants with a copy of his government
25 identification, Defendants' always paid Plaintiff with check.

26 37. Defendants delivered the last check personally to a former residence of Plaintiff's
27 sometime before Plaintiff obtained said check on or about December 22, 2020.
28

1 38. Plaintiff never received itemized wage statements, only personal checks which included
2 an inaccurate accounting of the number of hours worked and therefore necessarily inaccurate resulting
3 wages paid. No deductions were ever computed.

4 39. At the time of Plaintiff's termination, Plaintiff was 40 years old.

5 **Misclassification as Independent Contractor**

6 40. During the period of Plaintiff's employment with Employers, Plaintiff was a non-exempt
7 employee of Employers, and each of them based upon their alter ego relationship, as defined by California
8 Labor Code §350(b). Throughout the course of Plaintiff's employment, through and including the date
9 of Plaintiff's termination, Plaintiff was:

- 10 a. Under the control and direction of Defendants in connection with the performance of the work,
11 both under the contract for the performance of the work and in fact;
12 b. Performing work that is within the usual course of Defendants business; &
13 c. Not customarily engaged in an independently established trade, occupation, or business of the
14 same nature as that involved in the work performed. Plaintiff is unlicensed and had no business
15 of his own during the relevant time period.

16 41. Employers completely controlled and directed Plaintiff's performance of work, both under
17 the contract for the performance of the work and in fact, as follows:

- 18 a. Defendants provided Plaintiff with all of the equipment, tools and supplies Plaintiff required
19 to do Plaintiff's job;
20 b. Plaintiff was told what days and hours Plaintiff was required to work, where to go and what
21 to do, and worked a regular schedule (save after Plaintiff's raise);
22 c. Plaintiff was paid an hourly rate for Plaintiff's labor;
23 d. Plaintiff had no ability to turn down jobs assigned to Plaintiff by Employers; and
24 e. Employers had the right to discipline Plaintiff and to fire Plaintiff at-will, which right it
25 eventually exercised;

26 42. Defendants' business of real estate investment regularly and continuously required and
27 requires Defendants to address repairs, undertake renovations, and complete remodels of units within its
28 collection of investment properties. Upon information and belief, the entirety of Plaintiff's scope and

1 course of business during the relevant time period consisted of repairing, renovating, and remodeling
2 units pertaining to Defendants' business.

3 **FIRST CAUSE OF ACTION**

4 **RETALIATION**

5 **LABOR CODE §98.6**

6 **AGAINST ALL DEFENDANTS**

7 43. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive, as
8 though set forth in full herein.

9 44. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against an
10 employee for political activities; for complaining that he or she is owed unpaid wages, for
11 whistleblowing; for assigning wage claims to the Labor Commissioner resulting from demotion,
12 suspension, or discharge for lawful conduct occurring during nonworking hours away from employer's
13 premises; for filing a complaint with the Labor Commissioner or testifying in such proceedings; for
14 initiating proceedings against the employer to collect civil penalties under the "Labor Code Private
15 Attorneys General Act;" and for exercising "any rights afforded him or her" under the Labor Code. Thus,
16 Section 98.6 prohibits an employer from discharging or in any manner discriminating or retaliating
17 against an employee who, among other things, has exercised his or her rights under that Chapter,
18 including the right to take meal breaks, and/or made a written or oral complaint that he or she is owed
19 unpaid wages. An employee who has been discharged or retaliated against in violation of Labor Code
20 §98.6 is entitled to recovery of a civil penalty against the employer in an amount not exceeding ten
21 thousand dollars (\$10,000.00) for each violation of that section.

22 45. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff was
23 terminated from Plaintiff's employment with Defendants because of Plaintiff's complaints about not
24 being paid all wages due.

25 46. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
26 Defendants, and Defendants' officers and/or managing agents, including VASQUEZ, GENDI, and/or
27 those identified herein as DOES 1-20, who were authorized and empowered to make decisions that reflect
28 and/or create policy for Defendants. The aforementioned conduct of said managing agents and individuals

1 was therefore undertaken on behalf of Defendants. Defendants further had advance knowledge of the
2 actions and conduct of said individuals whose actions and conduct were ratified, authorized, and approved
3 by managing agents whose precise identities are unknown to Plaintiff at this time and are therefore
4 identified and designated herein as DOES 1-20, inclusive.

5 47. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
6 \$10,000.00 for Defendants' violations of Labor Code § 98.6.

7 48. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer general
8 and special damages, including severe and profound pain and emotional distress, anxiety, depression,
9 headaches, tension, and other physical ailments, as well as medical expenses, expenses for psychological
10 counseling and treatment, and past and future lost wages and benefits.

11 49. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,
12 commissions, benefits and loss or diminution of earning capacity.

13 50. Plaintiff claims general damages for emotional and mental distress and aggravation in a
14 sum more than the jurisdictional minimum of this Court.

15 51. Because the acts taken toward Plaintiff were carried out by managerial employees acting
16 in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and
17 in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against
18 Defendants and each of them, in sums in excess of the jurisdictional minimum of this court.

19 **SECOND CAUSE OF ACTION**

20 **FOR WRONGFUL TERMINATION**

21 **IN VIOLATION OF THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**

22 **AGAINST ALL DEFENDANTS**

23 52. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive, as
24 though set forth in full herein.

25 53. At all times mentioned in this complaint, it was a fundamental policy of the State of
26 California that Defendants cannot retaliate against any employee who complains about unpaid wages.

27 54. Plaintiff is informed and believes, and based thereupon alleges, that his complaint and
28 demand regarding unpaid wages was a proximate cause in Plaintiff's damages as stated below.

1 55. At all relevant times mentioned in this complaint, Labor Code §98.6 was in full force
2 and effect and was binding upon Defendants and each of them. This law prohibits retaliation against
3 employees who complain about unpaid wages and/or attempt to exercise the rights under the Labor
4 Code. Labor Code §98.6 reflects the State's broad public policy interest in protecting the rights of
5 individual employees and job applicants who could not otherwise afford to protect themselves from
6 violations of the Labor Code.

7 56. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's
8 engagement in protected activities under Labor Code § 98.6 was a proximate cause in Plaintiff's
9 damages as stated below.

10 57. At all relevant times mentioned in this complaint, Labor Code §§6310 and 6400, et seq.,
11 were in full force and effect and were binding on Defendants.

12 58. Labor Code §6310 declares, in pertinent part, that no person shall discharge, or in any
13 manner discriminate against an employee, because the employee has made any oral or written complaint
14 to his employer with reference to employee safety or health. The public policy underlying Labor Code
15 §6310 is not merely to aid the reporting of actual safety violations; it is to prevent retaliation against those
16 who in good faith report working conditions they believe to be unsafe.

17 59. Labor Code §§6400, et seq., require that every employer shall furnish employment and a
18 place of employment that is safe and healthful for employees.

19 60. When read together, the foregoing statutes establish a fundamental public policy of the
20 State of California requiring employers to provide a safe and secure workplace.

21 61. Plaintiff believes and thereon alleges that his complaints regarding the safety and health
22 of the place of employment furnished by Defendants, specifically the consumption of alcohol undertaken
23 by VASQUEZ and Güero, were factors in Defendants' decision to retaliate against Plaintiff by reducing
24 the number of days he worked, by refusing to investigate Plaintiff's complaints of VASQUEZ's alcohol
25 consumption, by failing to prevent said consumption, and by ultimately terminating Plaintiff, as alleged
26 hereinabove.

27 62. Such discrimination and retaliation against Plaintiff who, in good faith, reported working
28 conditions he believed to be unsafe were a proximate cause in Plaintiff's damages as stated below.

63. The damage allegations of Paragraphs 48 through 50, inclusive, are herein incorporated by reference.

64. The foregoing conduct of Defendants individually, or by and through their officers, directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

THIRD CAUSE OF ACTION

FOR MISCLASSIFICATION AS “INDEPENDENT CONTRACTOR”

AGAINST ALL DEFENDANTS

65. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive, as though set forth in full herein.

66. Pursuant to Labor Code §226.8(a)(1), it is unlawful for any person or employer to engage in willful misclassification of an individual as an independent contractor. Pursuant to Labor code §226.8(b), if a court issues a determination that a person or employer has violated subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law. Pursuant to Labor code §226.8(c), if a court issues a determination that a person or employer has violated subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

67. During the period of Plaintiff's employment with defendants, Plaintiff was an employee of Defendants, and each of them based upon their alter ego relationship, as defined by California Labor Code § 350(b). However, Defendants purposefully misclassified Plaintiff as an "Independent Contractor" because, by so doing, defendants lowered their cost of doing business by means of, but not limited to, the following:

1 68. Defendants did not report or pay the employer's share of federal or state payroll taxes with
2 respect to any of the funds paid to Plaintiff, as required by required by federal and state law;

3 69. Defendants did not provide or pay for Workers Compensation insurance for Plaintiff;

4 70. Defendants did not provide or pay for State Disability insurance for Plaintiff; and

5 71. Defendants did not provide or pay for benefits to Plaintiff that other of Defendants'
6 employees received.

7 72. As a direct and proximate result of the aforementioned violations of California law
8 committed by defendants, Plaintiff has suffered, and continues to suffer, substantial losses related to the
9 loss of the employer's share of payroll taxes, the use and enjoyment of such employee benefits, and
10 expenses and attorneys' fees in seeking to compel defendants to fully perform their obligation under state
11 law, all to their damage in amounts according to proof at time of trial, but in amounts in excess of the
12 minimum jurisdiction of this Court. Plaintiff is thus entitled to recover nominal, actual and compensatory
13 damages in amounts according to proof at time of trial, but in amounts in excess of the minimum
14 jurisdiction of this Court.

15 73. Defendants' failure to classify Plaintiff as an employee, in violation of California law, was
16 knowing and intentional. Defendants have refused to classify Plaintiff as an employee for false and
17 fraudulent reasons. The decision to misclassify Plaintiff as an "independent contractor" was made,
18 maintained, and enforced by Defendants, by and through their offices, directors and/or managing agents,
19 and was done willfully, maliciously, oppressively, and fraudulently, with the wrongful and deliberate
20 intention of injuring Plaintiff, and with a conscious disregard for Plaintiff's rights and defendants'
21 obligations under California laws, all of which has deprived Plaintiff of Plaintiff's property and legal
22 rights. Therefore, in addition to all other types of relief requested herein, Plaintiff is entitled to recover
23 punitive and exemplary damages in amounts according to proof at time of trial, but in amounts in excess
24 of the minimum jurisdiction of this Court.

25 74. Pursuant to Labor Code §226.8(b)-(c), Plaintiff seeks a determination that Defendants
26 have violated subdivision (a) and have engaged in or are engaging in a pattern or practice of these
27 violations, and seeks penalties of \$25,000 for each violation, in addition to any other penalties or fines
28 permitted by law.

FOURTH CAUSE OF ACTION
FOR FAILURE TO PAY MINIMUM WAGES
LABOR CODE §§1182.12, 1194, 1194.2, 1197
AGAINST ALL DEFENDANTS

75. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive, as though set forth in full herein.

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

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

Effective	26+ employees	1-25 employees
1/1/19	\$12	\$11
1/1/20	\$13	\$12

78. During Plaintiff's employment with Defendants, Employers failed and refused to pay Plaintiff the legal minimum wage in California.

79. For approximately one year starting from Plaintiff's from date of hire, by rounding off time worked every day to 8 hours, Defendants did not compensate Plaintiff, daily, for approximately 15 minutes of work. Therefore Plaintiff is owed for 1 hour and 15 minutes for each week that he worked until approximately sometime in September, 2020. From that time until Plaintiff's last day worked, Defendants continued to not compensate Plaintiff, daily, for approximately 15 minutes of work.

80. From the date on which Plaintiff ceased getting meal periods until his last day worked, by rounding off time worked every day to 8 hours, Defendants did not compensate Plaintiff, daily, for approximately 15 minutes of work. Therefore Plaintiff is owed for 1 hour and 15 minutes for each week that he worked 5 days for Defendants after he stopped getting meal periods, and 15 minutes a day for weeks during which he did not work Monday – Friday.

81. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum wages in an amount to be determined at trial.

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

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

7 84. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
8 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
9 additional amount to be determined at trial, plus interest thereon.

10 **FIFTH CAUSE OF ACTION**

11 **FOR FAILURE TO PAY OVERTIME COMPENSATION**

12 **LABOR CODE §§510, 1194**

13 **AGAINST ALL DEFENDANTS**

14 85. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive, as
15 though set forth in full herein.

16 86. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
17 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
18 hours per week.

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

21 88. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
22 compensation required by Labor Code §510, and IWC Wage Order No. 16-2001.

23 89. Throughout his first year of employment with Defendants, Plaintiff worked 1.25 hours
24 of overtime each week, all of which should have been paid at 1.5 times Plaintiff's regular hourly wage
25 rate at that time. Defendants failed to pay Plaintiff the requisite overtime wages in each of the following
26 ways:

27 90. From date of hire until Plaintiff asked for a raise in wages, by rounding off time worked
28 every day to 8 hours, Defendants did not compensate Plaintiff, daily, for approximately 15 minutes of

1 work. On each of those days Plaintiff worked and was paid for 8 hours, so the remaining 15 minutes
2 worked amounts to unpaid work requiring payment at overtime rates. Therefore Plaintiff is owed for 1
3 hour and 15 minutes for each week that he worked until approximately some time in September, 2020, at
4 which time his owed wages became much less consistent and therefore must be proven at trial.

5 91. From the date on which Plaintiff ceased getting meal periods until his last day worked, by
6 rounding off time worked every day to 8 hours, Defendants did not compensate Plaintiff, daily, for
7 approximately 15 minutes of work. On each of those days Plaintiff worked and was paid for 8 hours, so
8 the remaining fifteen minutes of unpaid work needs to be paid at overtime rates. Therefore Plaintiff is
9 owed 15 minutes of overtime wages for each day that he worked for Defendants after he stopped getting
10 meal periods.

11 92. In addition to the regularly worked unpaid overtime hours above, Plaintiff worked
12 approximately 8 hours on occasional Saturdays, once in every two months. Since these are hours over 40
13 in a week, but Defendants only paid Plaintiff at his regular wage rate, Plaintiff is owed overtime premiums
14 for approximately 64 hours of work total (48 hours at \$7.50 per hour over regular wages already paid
15 during period in which Plaintiff was paid \$15 an hour, and 16 hours at \$8.50 per hour over regular wages
16 already paid during period in which Plaintiff was paid \$17 an hour).

17 93. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
18 Code §510, and IWC Wage Order No. 16-2001.

19 94. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
20 in an amount to be determined at trial, above and beyond the minimum wages sought in the preceding
21 cause of action for these same hours.

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

SIXTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE MEAL AND REST BREAKS
LABOR CODE §§226.7, 512
AGAINST ALL DEFENDANTS

96. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive as though set forth in full herein.

97. Labor Code §512 requires employers to provide every employee with an uninterrupted meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

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

99. Throughout his employment with Defendants, Plaintiff regularly worked 8 hours per day, and was thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on each day he worked.

100. Defendants failed to provide Plaintiff with meal periods, and failed to compensate Plaintiff for missed meal periods, as required by Labor Code §512, and IWC Wage Order No. 16-2001 for approximately his last two months of work.

101. Defendants failed and refused to provide Plaintiff with rest periods, and failed to compensate Plaintiff for missed rest periods, as required by Labor Code §§226.7 and IWC Wage Order No. 16-2001 for all days worked. This amounts to 52 weeks * 5 days a week for the first year of work, and an amount to be determined at trial for the remaining balance, for a minimum amount owed of \$3,900 (\$15/hour * 5 days/week * 52 weeks).

102. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of the Labor Code and IWC Wage Order No. 16-2001. Consequently, Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage, whichever is greater, for each day that Plaintiff was denied such meal periods and is owed one hour of pay at Plaintiff's regular hourly rate for each day that Plaintiff was denied such rest periods. Such calculations will be realized at trial.

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

Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover such amounts to be determined at trial, pursuant to Labor Code §226.7(b), plus interest thereon and costs of suit.

SEVENTH CAUSE OF ACTION

FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS

LABOR CODE §§226 ET SEQ.

AGAINST ALL DEFENDANTS

104. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive as though set forth in full herein.

105. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-exempt employees with accurate itemized statements showing total hours worked, hourly wages, gross wages, total deductions, and net wages earned, *separate* from the check itself. An employer who violates these code sections is liable to its employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement at all.

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

107. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate wage and hour statements showing gross wages earned, total hours worked, all deductions made, net wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and rates in effect during each pay period and the corresponding number of hours worked at each hourly rate by Plaintiff. Defendants' failure to provide such information was knowing and intentional, not

1 inadvertent. Defendants' payments to Plaintiff consisted entirely and solely of checks, excepting two
2 weeks of wages paid in cash at the beginning of Plaintiff's employment.

3 108. As alleged herein, Plaintiff is availed of the requirements of Labor Code §226 by virtue
4 of the nature of his employment with Defendant.

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

13 110. Plaintiff was paid on a bi-weekly basis, and therefore Defendants violated Labor Code
14 §226 approximately 31 times during the time Plaintiff worked for Defendants. Consequently, Defendants
15 are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutorily calculated amount of
16 \$3,100.00 (\$50 for first violation, \$100 for each of the subsequent 30 violations), whichever is greater.

17 111. In addition, Defendants' failure to provide wage statements was willful in nature.
18 Consequently, Defendants are liable to Plaintiff for penalties in the amount of \$250.00 for the first
19 violation, and \$1,000.00 for each of the subsequent 30 violations, for a total of \$31,250.00 (\$250.00 +
20 \$1,000.00 x 30 subsequent pay periods).

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

1 **EIGHTH CAUSE OF ACTION**
2 **FOR WAITING TIME PENALTIES**
3 **LABOR CODE §§201-203**
4 **AGAINST ALL DEFENDANTS**

5 113. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive, as
6 though set forth in full herein.

7 114. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
8 other compensation due immediately upon termination or within 72 hours of resignation, as required.
9 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest
10 period compensation that Defendants should have paid but did not pay Plaintiff during the term of
11 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-
12 203.

13 115. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
14 203.

15 116. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
16 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and
17 more than \$4,271 in wait time penalties, calculated based on a daily average wage of \$142.38 (8 hours
18 worked * \$17/hour + .25 hours worked * 25.50), times 30 days.

19 117. Based on Defendants' conduct as alleged herein, Defendants are liable for \$4,271 in
20 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
21 fees and costs.

22 **NINTH CAUSE OF ACTION**
23 **FOR PENALTIES PURSUANT TO THE PRIVATE ATTORNEY GENERAL ACT**
24 **LABOR CODE §2699**
25 **ON BEHALF OF ALL AGGRIEVED EMPLOYEES**
26 **AGAINST ALL DEFENDANTS**

27 118. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive as
28 though set forth in full herein.

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

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

121. On January 19, 2021, more than 65 calendar days before filing this Complaint, Plaintiff provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code §2699.3(a) by citing the specific provision of the Labor Code alleged to have been violated, including the facts and theories sufficient to support the alleged violations.

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

123. Further, as of the filing of this Complaint, Plaintiffs have not received from Defendants written notice by certified mail that the alleged violations have been cured, including a description of the actions taken. As such, Plaintiffs have complied with Labor Code §2699.3(c) and have been given authorization therefrom to commence a civil action which includes a cause of action pursuant to Labor Code §2699.

PENALTIES

124. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) (or any of its departments, divisions, commissions, board agency or employees), such civil penalties may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees) and Labor Code §2699(f) (which establishes a civil penalty for violations of all Labor Code provisions except those which a civil penalty is specifically provided), the aggrieved employees seek recover of all applicable civil penalties, as follows:

- 1 a. As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor Code
2 except for those for which a civil penalty is specifically provided, in the amount of one hundred
3 dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two hundred
4 dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation; and
- 5 b. As applicable, civil penalties under Labor Code §558 (in addition to and entirely independent and
6 apart from any other penalty provided for in the Labor Code), for violations of Labor Code §§1-556,
7 in the amount of \$50 for each underpaid aggrieved employee for each pay period the aggrieved
8 employee was underpaid in addition to an amount sufficient to recover underpaid wages, and \$100
9 for each subsequent violation for each underpaid employee for each pay period for which the
10 employee was underpaid; and also an additional amount sufficient to recover under paid wages as
11 penalties, with all wages recovered pursuant to Labor Code §557 paid to the aggrieved employees;
- 12 c. As applicable, civil penalties under Labor Code §1197.1 (in addition to and entirely independent
13 and apart from any other penalty provided in the Labor Code) for violations of Labor Code §§1194
14 and 1197, in the amount of \$100 for each underpaid aggrieved employee for each pay period the
15 aggrieved employee was intentionally underpaid in addition to an amount sufficient to recover
16 underpaid wages, and \$250 for each subsequent violation for each underpaid aggrieved employees
17 regardless of whether the initial violation was intentionally committed in addition to an amount
18 sufficient to recover underpaid wages, with all wages recovered pursuant to Labor Code §1197.1;
- 19 d. As applicable, civil penalties under Labor Code §210 (in addition to and entirely independent and
20 apart from any other penalty provided in the Labor Code), for each employee who is/was not paid
21 wages in accordance with Labor Code §§201.3, 204, 204b, 204.1, 204.2, 205, 205.5 and 1197.5, in
22 the amount of a civil penalty of \$100 for each aggrieved employee per pay period for each initial
23 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- 24 e. As applicable, civil penalties under Labor Code §225.5 (in addition to and entirely independent
25 and apart from any other penalty provided in the Labor Code), for each violation of Labor Code §221,
26 in the amount of \$100 for each aggrieved employee per pay period for each violation; and \$200 for
27 each aggrieved employee per pay period for each subsequent violation plus 25 percent of the amount
28 unlawfully withheld;

1 f. As applicable, civil penalties under Labor Code §226.3 (in addition to and entirely independent
2 and apart from any other civil penalty provided in the Labor Code), for each violation of Labor Code
3 §226(a), in the amount of \$250 for each aggrieved employee per pay period for each violation and
4 \$1,000 for each aggrieved employee per pay period for each subsequent violation;

5 g. As applicable, civil penalties under Labor Code §§203 and/or 256 (in addition to and entirely
6 independent and apart from any other penalty provided in the Labor Code), for any aggrieved
7 employee who was discharged or quit, and was not paid all earned wages at termination in accordance
8 with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of
9 pay, at the same rate, for each day that he or she was paid late, until payment was/is made, up to a
10 maximum of thirty (30) days; and

11 h. As applicable, any and all additional applicable civil penalties and sums as provided by the Labor
12 Code and/or other relevant statutes.

13 125. In addition, Plaintiffs seek and are entitled to seventy-five percent (75%) of all penalties
14 obtained under Labor Code §2699 to be allocated to the LWDA, for education of employers and
15 employees about their rights and responsibilities under the Labor Code, and twenty-five percent (25%)
16 to the aggrieved employees.

17 126. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
18 recovery of pre-judgment interest on all amounts recovered herein.

19 127. Further, Plaintiffs are entitled; to recover reasonable attorneys' fees and costs pursuant to
20 Labor Code §§2699(g)(1) and any other applicable statute.

21 **TENTH CAUSE OF ACTION**

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

23 **LABOR CODE §§226, 1198.5**

24 **AGAINST ALL DEFENDANTS**

25 128. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive as
26 though set forth in full herein.

27 129. Labor Code §1198.5 requires an employer, within thirty (30) days of receipt of a written
28 request thereof, to inspect or receive a copy of an employee's personnel records that the employer

maintains relating to the employee's performance or to any grievance concerning the employee. An employer's failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

130. Labor Code §226(c) requires an employer, within twenty-one (21) days of a written request thereof, to allow inspection or to provide a copy of an employee's payroll records. An employer's failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

131. On January 11, 2021, Plaintiff made a written request to inspect or receive a copy of Plaintiff's personnel and payroll records from Defendants, which Defendants received on or before February 9, 2021.

132. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel records and failed to provide a copy of Plaintiff's payroll records to Plaintiff within the time required by Labor Code §§1198.5 and 226(c), or ever.

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

134. As a result of Defendants' failure and refusal to comply with Labor Code §226(f), Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00.

135. Pursuant to Labor Code §§1198.5(d) and 226(h), Plaintiff requests a reasonable award of attorneys' fees and costs.

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

136. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42, inclusive as though set forth in full herein.

137. Defendants' violations of Industrial Welfare Commission Wage Order No. 16-2001, the California Labor Code including, but not limited to §2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants' failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation due in a timely manner upon termination or

1 resignation, and Defendants' failure to maintain complete and accurate payroll records for the Plaintiff,
2 constitute unfair business practices in violation of Business & Professions Code §§17200, et seq.

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

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

10 **PRAYER FOR RELIEF**

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

13 1. For a money judgment representing compensatory damages including lost wages,
14 earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,
15 together with interest on these amounts; for other special damages; and for general damages for mental
16 pain and anguish and emotional distress and loss of earning capacity;

17 2. For civil penalties pursuant to Labor Code §98.6 in the amount of no less than \$10,000.00;

18 3. For penalties pursuant to Labor Code §226.8(b)-(c), in the amount of no less than \$25,000;

19 4. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12,
20 1194, 1194.2, 1197, and IWC Wage Order No. 16-2001, in the amount of no less than \$1,170;

21 5. For liquidated damages pursuant to Labor Code §1194.2 in the amount of no less than
22 \$1,170, plus interest;

23 6. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194,
24 IWC Wage Order No. 16-2001, and 8 Code of Regulations §11**0, in the amount of no less than \$487;

25 7. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512,
26 in the amount of no less than \$3,900;

27 8. For damages pursuant to Labor Code §226 in the amount of no less than \$3,100.00;

1 9. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no
2 less than \$31,250;

3 10. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
4 than \$4,271;

5 11. For statutory penalties pursuant to Labor Code §2699(f), on Plaintiff's own behalf, and
6 similar amounts on behalf of all of Defendants' aggrieved employees;

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

9 13. As a result of Defendants' failure and refusal to comply with Labor Code §226(f), Plaintiff
10 is entitled to recover from Defendants a civil penalty of \$750.00;

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

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

15 15. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
16 condemning Defendants' discriminatory and/or retaliatory practices;

17 16. For injunctive relief barring Defendants' discriminatory employment policies and
18 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

19 17. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
20 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

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

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

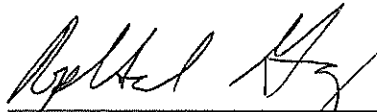
1 20. For costs of suit, attorneys' fees, and expert witness fees pursuant to the Labor Code and/or
2 any other basis;

3 21. For post-judgment interest; and

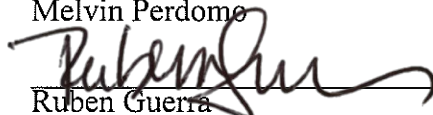
4 22. For any other relief that is just and proper.

5 DATED: December 17, 2021

NEPHTALAW/GUERRA & CASILLAS, LLP

6
7 By:  by fax

8 Nephtali Gonzales
9 Lead Attorney for Plaintiff
10 Melvin Perdomo

11 
12 Ruben Guerra
13 Attorney for Plaintiff
14 Melvin Perdomo

15
16 **JURY TRIAL DEMANDED**

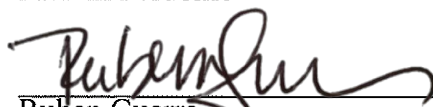
17 Plaintiff demands trial of all issues by jury.

18 DATED: December 17, 2021

NEPHTALAW/GUERRA & CASILLAS, LLP

19 By:  by fax

20 Nephtali Gonzales
21 Lead Attorney for Plaintiff
22 Melvin Perdomo

23 
24 Ruben Guerra
25 Attorney for Plaintiff
26 Melvin Perdomo