

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Richard Fruin

MESSRELIAN LAW INC.

Harout Messrelian, Esq. (272020)
500 N. Central Ave., Suite 840
Glendale, California 91203
Telephone: (818) 484-6531
Facsimile: (818) 956-1983
Email: hm@messrelianlaw.com

Attorneys for Plaintiff RUBEN CHUBAC

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

RUBEN CHUBAC,

Plaintiff,

vs.

CORR CONTEMPORARY HOMES LLC;
JAMES CORR; and DOES 1 to 25,
inclusive,

Defendants.

CASE NO.: **21STCV17005**

COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES;**
- 3) FAILURE TO PAY OVERTIME;**
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 7) VIOLATION OF LABOR CODE SECTION 558;**
- 8) FAILURE TO GIVE REST BREAKS;**
- 9) FAILURE TO GIVE MEAL BREAKS;**
- 10) FAILURE TO MAINTAIN ACCURATE RECORDS;**
- 11) FAILURE TO REIMBURSE FOR BUSINESS EXPENSES;**
- 12) PRIVATE ATTORNEYS GENERAL ACT ("PAGA");**
- 13) VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

JURY TRIAL DEMANDED

)

COMES NOW Plaintiff, RUBEN CHUBAC (hereinafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants CORR CONTEMPORARY HOMES LLC; JAMES CORR; and DOES 1 to 25, inclusive, do business in the County of Los Angeles, and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff's damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant CORR CONTEMPORARY HOMES LLC is a California corporation with its principal place of business in Marina Del Ray, California and in the County of Los Angeles and doing business in the County of Los Angeles, State of California.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant JAMES CORR is a male resident of the County of Los Angeles, State of California and was the President, CEO, and managing agent of CORR CONTEMPORARY HOMES LLC. JAMES CORR is being included in this lawsuit pursuant to California Labor Code Section 558.1 as he controlled the hours, wages, and working conditions of Plaintiff and other similarly

1 situated aggrieved employees. CORR CONTEMPORARY HOMES LLC and JAMES CORR
2 are collectively referred to as “CORR” or “Defendant(s)”.

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5 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
6 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
7 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
8 defendants, numbers 1 to 25, reside in the State of California and are in some manner
9 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
10 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
11 and capacities of these fictitiously named defendants.
12

13 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
14 that information and belief, alleges that at all times herein mentioned, each of the remaining
15 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
16 under the authority of their agency, employment, or representative capacity, with the consent
17 of his/her codefendants.
18

19 **GENERAL ALLEGATIONS**

20 7. Plaintiff started working for CORR on or around late 2018/early 2019 as a carpenter.
21 Plaintiff was considered an hourly, non-exempt employee. Plaintiff was paid on a weekly
22 basis. Plaintiff’s final rate of pay was \$20 per hour. Initially, Plaintiff and others worked 6 days
23 per week, but later the schedule was amended to 5 days per week. Plaintiff’s work hours were
24 from approximately 7am to 3:30pm or later, however, Plaintiff and others did work “off the
25 clock” as will be described. Plaintiff was terminated from his employment at CORR on or
26 around December 2020.

27 8. It is Plaintiff’s position that CORR has committed numerous labor code violations
28

1 against Plaintiff and other aggrieved employees as follows:

2 9. CORR did not compensate Plaintiff and others for all hours worked. Moreover, CORR
3 did not provide Plaintiff and other aggrieved employees with the minimum wages to which they
4 were entitled for work performed “off the clock”, pursuant to California Labor Code sections
5
6 1194, 1197 and 1197.1. This “off the clock” work included Plaintiff being instructed to go pick
7 up tools from another job site after he had finished his work at a job site and after he had clocked
8 out on the “Harvest” application, which he was required to download on his personal cell phone.
9 As such, Plaintiff would drive from one job site to another in his personal vehicle to pick up
10 tools and would not be compensated for that time whatsoever. On other occasions, Plaintiff
11 would be asked to pick up materials either after work or before work and take it to a particular
12 job site. Management and ownership knew that Plaintiff had a Chevy Silverado truck that was
13 able to transport tools and materials and so they would request Plaintiff use his personal vehicle
14 to work “off the clock”.

15 10. Furthermore, pursuant to Industrial Welfare Commission Order Wage Order no. 16-
16 2001, Section 8(B), “[W]hen the employer requires the use of tools or equipment or they are
17 necessary for the performance of a job, such tools and equipment shall be provided and
18 maintained by the employer, except that an employee whose wages are at least two (2) times the
19 minimum wage may provide and maintain hand tools and equipment customarily required by
20 the particular trade or craft in conformity with Labor Code Section 2802.” Plaintiff and other
21 aggrieved employees had to use their own hand tools to perform the main functions of their jobs.
22 CORR did not provide Plaintiff and others with any tools whatsoever and, in fact, required
23 Plaintiff and others to bring their own tools. In Plaintiff’s case, those tools included a skill saw,
24 drills, nail gun, leveler, laser, and other similar tools. There was absolutely no way that Plaintiff
25 would be able to perform his job duties without the above hand tools. Despite requiring Plaintiff
26 and others to bring their own tools, CORR did not compensate Plaintiff and others at twice the
27 minimum wage rate.
28

1 11. CORR violated Labor Code §510 because it failed to pay Plaintiff and other similarly
2 situated aggrieved employees overtime, even though they worked more than 8 hours per day, 12
3 hours per day, and/or 40 hours per week throughout their employment. As alluded to above,
4 Plaintiff and others certainly worked “off the clock” due to requests by management and
5
6 ownership to pick up tools and materials either before or after work. The latter “off the clock”
7 work meant that Plaintiff and others would in fact work more than 8 hours in a day but were
8 never paid overtime for those overtime hours. In fact, even absent the “off the clock” hours,
9 Plaintiff routinely worked over 8 hours in a single workday per the “Harvest” application, but he
10 and other similarly situated aggrieved employees were not compensated at one-and-a-half their
11 regular rate of pay for those hours. Furthermore, Plaintiff’s overtime rate would have been
12 incorrect due to the fact that Plaintiff and others were not compensated twice the minimum wage
13 due to having to bring and utilize their own hand tools.

14 12. CORR violated Labor Code §§ 512, 226.7, and California Industrial Welfare
15 Commission Wage Order 16-2001 because it failed to provide Plaintiffs and other similarly
16 situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for every five
17 (5) hours of work throughout their employment, and Plaintiff did not validly waive said meal
18 periods. CORR did not completely relieve Plaintiff of all duty during said meal periods. CORR
19 did not pay to Plaintiff one additional hour of pay at Plaintiff’s regular rate of compensation for
20 each workday that one or more statutory meal periods was not provided. It was not company
21 policy and not part of the company culture for employees such as Plaintiff and others to take
22 timely, uninterrupted statutory meal breaks. It was the normal practice and custom of CORR not
23 to authorize, permit, and enforce statutory meal periods. There were occasions wherein Plaintiff
24 and others would not take a meal period at all. On other occasions, Plaintiff and others would
25 have to take meal periods starting at 1pm or 2pm, which was after the 5th hour worked. On other
26 occasions, Plaintiff’s meal periods would be interrupted as materials were brought in. The overall
27 culture at the company did not lend itself to the employees receiving statutory breaks wherein
28 they were relieved of all work duties.

1 13. CORR violated Labor Code § 226.7 and California Industrial Welfare Commission Wage
2 Order 16-2001 because it failed to provide Plaintiff and other similarly situated aggrieved
3 employees 10-minute rest periods for every four hours of work, or majority portion thereof,
4
5 throughout their employment. CORR did not completely relieve Plaintiff of all duty during said
6 rest periods. CORR did not pay to Plaintiff one additional hour of pay at Plaintiff's regular rate
7 of compensation for each workday that one or more statutory rest periods was not provided.
8 Plaintiff and others did not receive timely, statutory rest breaks because they were not part of the
9 company policy and not enforced at all. In fact, employees were told that they had only one
10 "break", which was the meal break. Rest periods were not part of the culture and not part of
11 company's protocol. They were completely ignored and Plaintiff and others never received a
12 single rest period throughout their employment tenures.

13 14. Furthermore, during the relevant time period, CORR failed to pay Plaintiff and other
14 similarly situated aggrieved employees all wages due to them within any time period specified
15 by California Labor Code section 204. CORR was also in violation of California Labor Code
16 section 226(a), by failing to include pertinent information on the wage statements, including but
17 not limited to, all hours worked, gross wages earned (minimum wage and overtime pay), all
18 deductions, net wages earned, all applicable hourly rates, the correct start and end of a pay period,
19 the correct name and address of the legal employer, and also failed to include the penalties for
20 the missed rest breaks and meal breaks, and failed to provide business expense reimbursement.
21 As such, CORR did not provide Plaintiff and other similarly situated aggrieved employees with
22 complete, accurate itemized wage statements.

23 15. CORR violated Labor Code § 203 because it willfully failed to pay Plaintiff and other
24 similarly situated aggrieved employees earned and due wages upon separation of employment,
25 either immediately upon involuntary termination, or within 72 hours of resignation. After
26 Plaintiff was terminated from his position at CORR and after Plaintiff's employment with CORR
27 ended, CORR failed and refused to pay all wages earned and due immediately upon separation.
28

1 These earned but unpaid wages include minimum wages for all hours worked (and two times the
2 minimum wage for requiring the use of hand tools/equipment), overtime compensation,
3 meal/rest period premium pay as described above, and business expense reimbursement.

4 ///

5 16. During the relevant time period, CORR also failed to keep accurate and complete payroll
6 records showing the actual hours worked per day and the wages paid to Plaintiff and other
7 aggrieved employees pursuant to California Labor Code sections 1174(d).

8 17. During the relevant time period, Plaintiff and other aggrieved employees incurred
9 necessary, business-related expenses and costs that were not reimbursed by CORR. These costs
10 include, but are not limited to, use of personal cell phones for work purposes and use of hand
11 tools/power tools for business purposes and in effectuating the work for CORR as mentioned
12 above. In terms of his personal cell phone, Plaintiff utilized his personal cell phone to clock in
13 and out of work on the “Harvest” application and also utilized his personal cell phone to
14 communicate with company management and ownership who would call or text Plaintiff on his
15 cell phone during work hours. Furthermore, Plaintiff and others were not compensated for
16 mileage in driving their personal vehicles to perform work-related tasks, such as picking up
17 material and tools for the employer. Accordingly, CORR was in violation of California Labor
18 Code sections 2800 and 2802.

19 18. Moreover, CORR failed to provide sick pay pursuant to Labor Code section 246 and also
20 failed to provide Worker’s Compensation coverage for Plaintiff and other aggrieved employees
21 in violation of Labor Code Section 3700.5.

22 **FIRST CAUSE OF ACTION**

23 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

24 **(California Industrial Welfare Commission Order 16-2001, California Code of**
25 **Regulations Title 8 Section 11160, and California Labor Code Section 1198)**

26 **(Plaintiff against all named Defendants and all DOE Defendants)**
27
28

1 19. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 18, inclusive, of this Complaint as thought fully set forth herein.

3 20. At all times relevant herein, Defendants were required to compensate its employees for
4 all hours worked upon reporting for work at the appointed time stated by the employer
5 pursuant to Industrial Welfare Commission Order 16-2001, California Code of Regulations,
6 Title 8, Section 11160.

7 21. For the three (3) years preceding filing of this action, Defendants failed to compensate
8 Plaintiff for all hours worked.
9

10 22. Under the aforementioned wage and order regulations, Plaintiff is to recover
11 compensation for all hours worked but not paid by Defendants for the three (3) years preceding
12 the filing of this Complaint.

13 23. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
14 an amount according to proof at time of trial, but not in an amount in excess of the jurisdiction
15 of this Court.
16

17 24. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
18 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
19 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
20 reasonable attorney's fees and costs of suit.

21 25. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
22 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
23 amount known to Plaintiff once he has obtained all of his payroll records from Defendants.
24

25 **SECOND CAUSE OF ACTION**

26 **FAILURE TO PAY MINIMUM WAGES**

27 **(California Labor Code Sections 1771, 1774, 1194, 1194.2, 1197)**
28

(Plaintiff against All Named Defendants and all DOE defendants)

26. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 25, inclusive, of this Complaint as though fully set forth herein.

27. Pursuant to Labor Code Sections 1194, 1194.2, 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the minimum wage rate for all hours worked as required by the applicable Industrial Welfare Commission (hereinafter “IWC”) Wage Order No. 16-2001, codified at California Code of Regulations, Title 8, Section 11160, subdivision 4.

28. Pursuant to IWC Wage Order No. 16-2001, subdivision 2, at all relevant times, “hours worked” included “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so...”

29. During his employment, Plaintiff was regularly required as a matter of uniform policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff was paid less than the minimum wage rate by Defendants for hours worked in violation of California Labor Code Section 1197 and the applicable California IWC wage order(s). Moreover, Plaintiff was supposed to be paid twice the minimum wage due to the fact that Defendants required Plaintiff to provide his own hand tools and equipment to effectuate his job duties. Not only did Plaintiff not receive the minimum wage for all hours worked, but he also did not receive twice the minimum wage as he was supposed to under California law and pursuant to Wage Order no. 16-2001.

30. Plaintiff was, at all relevant times, under the control of Defendants and suffered or permitted to work by Defendants. Defendants’ acts or omissions in failing to adequately compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants

1 to believe that their acts or omissions were not contrary to California law.

2 31. For all hours worked by Plaintiff for which he was paid less than the minimum wage
3 rate by Defendants (and also twice the minimum wage rate), Plaintiff is entitled to not less than
4 the applicable California minimum wage rate (and twice the minimum wage rate) and,
5 pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
6 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
7 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

8 32. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
9 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
10 trial.

11 **THIRD CAUSE OF ACTION**

12 **FAILURE TO PAY OVERTIME**

13 **(California Industrial Welfare Commission Order 16-2001, California Code of**

14 **Regulations Title 8 Section 11160)**

15 **(Plaintiff against All Named Defendants and all DOE defendants)**

16 33. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 32, inclusive, of this Complaint as though fully set forth herein.

18 34. Pursuant to Industrial Welfare Commission Order No. 16-2001, California
19 Code of Regulations, Title 8, Section 11160, for the period of Plaintiff's employment,
20 Defendants were required to compensate Plaintiff for all overtime, which is calculated at one
21 and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day
22 or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in
23 excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh
24 consecutive work day in a week.

25 35. Plaintiff was a non-exempt employee entitled to the protections of the California
26 Industrial Welfare Commission Order No. 16-2001, California Code of Regulations,
27 Title 8, Section 11160.
28

1 36. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
2 single workweek on numerous occasions.

3 37. Plaintiff worked more than twelve (12) hours in a single workday.

4 38. Plaintiff was entitled to the above overtime premiums.

5 39. Defendants did not pay Plaintiff premium wages of at least one and one-half times
6 Plaintiff's correct regular rate of pay for hours worked past eight (8) in a day.

7 40. Defendants did not pay Plaintiff premium wages of at least one and one-half times
8 Plaintiff's correct regular rate of pay for hours worked past forty (40) in a week.

9 41. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's correct
10 regular rate of pay for hours worked past twelve (12) in a day.

11 42. Plaintiff worked at least one pay period in which he was not properly paid the correct
12 amount of overtime within the three (3) years prior to the initiation of this lawsuit.

13 43. Defendants know or should know the actual dates of overtime worked, the amount of
14 overtime worked, and the amount of unpaid overtime due. In fact, since Plaintiff was supposed
15 to be paid twice the minimum wage rate for regular hours worked, Plaintiff's overtime rate
16 would have been calculated based on Plaintiff's higher regular rate of pay.

17 44. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
18 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
19 Court.

20 45. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
21 Regulations, Title 8, Section 11160, Plaintiff is entitled to recover damages for the
22 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
23 reasonable attorney's fees and costs of suit.

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25
26 **FOURTH CAUSE OF ACTION**

27 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

(California Labor Code Section 226)

(Against All Named Defendants and all DOE Defendants)

46. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 45, inclusive, of this Complaint as though fully set forth herein.

47. Labor Code section 226(a) requires employers provide employees with itemized wage statements.

48. Labor Code section 226(a)(2) requires pay stubs accurately account for hours worked and the applicable hourly rates.

49. Labor Code section 226(a)(9) requires pay stubs to accurately reflect all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

50. Pursuant to California Labor Code Section 226, every employer must furnish each employee an itemized statement of wages and deductions at the time of payment of wages.

51. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that accurately reflected all information required by Labor Code Section 226, including but not limited to, gross wages earned, net wages earned, total hours worked by the employee, all deductions, overtime hours and pay, premium pay for rest break and meal break violations, all applicable hourly rates, business expense reimbursement, the correct start and end of the pay period, the correct name and address of the legal employer, and the employee's correct identifying information, among others. Therefore, Defendants failed to maintain and provide accurate itemized wage statements to Plaintiff in accordance with California Labor Code Section 226(a).

52. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to

1 the 1-year period immediately preceding the date this lawsuit was filed.

2 53. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
3 sustained damages, including loss of earnings, in an amount to be established at trial. As a
4 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
5 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
6 and attorney's fees pursuant to statute.

7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

9
10 **(California Labor Code Section 204)**

11 **(Plaintiff against All Named Defendants all DOE defendants)**

12 54. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 53, inclusive, of this Complaint as thought fully set forth herein.

14 55. California Labor Code Section 204 establishes the fundamental right of all employees
15 in the State of California to be paid wages in a timely fashion for their work.

16 56. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
17 full amount of all owed wages when due as required by California Labor Code Section 204.

18 57. Due the aforementioned violations, Defendants failed to pay Plaintiff all wages earned
19 each pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant
20 during the liability period, Defendants maintained a policy or practice of not paying Plaintiff
21 the minimum wage for all hours worked, not paying Plaintiff for all overtime hours worked,
22 and not compensating Plaintiff with premium pay for missed rest and meal breaks.

23 58. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
24 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
25 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
26 from Defendants' records or indirectly based on information from Defendants' records.

27 **SIXTH CAUSE OF ACTION**

FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS

(Plaintiff against all named Defendants and all DOE defendants)

59. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.

60. Pursuant to California Labor Code Section 201(a), an employer who discharges an employee must immediately pay for all compensation due and owing.

61. Pursuant to California Labor Code Section 202, when an employee resigns, the employer must pay all compensation due and owing within 72 hours of resignation, or on the employee's last day of work, if the employee gives more than 72 hours notice of resignation.

62. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay, without abatement or reduction, any wages of an employee whose employment ends, the wages of the employee shall continue as a penalty from the due date at the same rate until paid or until an action is commenced; however, the wages shall not continue for more than 30 days for failure to pay an employee owed wages.

63. After Plaintiff's employment with Defendants ended, Defendants willfully refused and continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

64. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 1 year immediately preceding the filing of this lawsuit.

65. Under this cause of action, Plaintiff also prays for attorney's fees and costs under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

66. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged

1 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
2 trial.

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5 **SEVENTH CAUSE OF ACTION**

6 **VIOLATION OF LABOR CODE SECTION 558**

7 **(California Labor Code Section 558)**

8 **(Plaintiff against all named defendants and all DOE defendants)**

9
10 67. Plaintiff re-alleges and incorporates by reference each and every allegation in
11 paragraphs 1 through 66, inclusive, of this Complaint as though fully set forth herein.

12 68. California Labor Code Section 558 states that any person acting on behalf of an
13 employer who violates, or causes to be violated, a section of this chapter or any provision
14 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
15 subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid
16 employee for each pay period for which the employee was underpaid in addition to an amount
17 sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one
18 hundred dollars (\$100) for each underpaid employee for each pay period for which the
19 employee was underpaid in addition to an amount sufficient to recover underpaid wages.
20 Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was
21 filed.
22

23
24 69. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558. Thus,
25 Defendants are subject to civil penalties under the following laws:

- 26 a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular and
27 overtime wages for regular and overtime hours worked. As such, Defendants
28

1 violated Section 558 under which penalties are due. Plaintiff therefore prays for
2 penalties of \$50.00 for the first pay period and \$100.00 for each subsequent
3 violation for each pay period for which Plaintiff was underpaid in addition to an
4 amount sufficient to recover underpaid wages.

5 b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for
6 relief associated with Plaintiff's prosecution of this cause of action under California
7 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
8 paying Plaintiff for his overtime hours worked and for all hours worked.

9 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
10 fees for relief associated with Plaintiff's prosecution of this cause of action under
11 California Labor Code Sections 200, et seq.

12
13 70. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under
14 the statutes, regulations, and wage orders alleged in this cause of action along with any
15 allowable interest, penalties, attorney's fees, and costs according to proof at trial.

16
17 71. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs on
18 attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.

19
20 **EIGHTH CAUSE OF ACTION**

21 **FAILURE TO GIVE REST BREAKS**

22 **(Plaintiff against all named defendants and all DOE defendants)**

23 72. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 71, inclusive, of this Complaint as though fully set forth herein.

25 73. Plaintiff brings this cause of action under the following laws, for the following reasons:

26 a. Title 8 of the California Code of Regulations Section 11160(11)(A), which
27 provides that every employer shall authorize and permit all employees to take
28

1 rest periods, which insofar as practicable shall be in the middle of each work
2 period. The authorized rest period time shall be based on the total hours worked
3 daily at the rate of ten (10) minutes net rest time per four (4) hours or major
4 fraction thereof;

5 b. Title 8 of the California Code of Regulations Section 11160(11)(B), which
6 provides that if an employer fails to provide an employee a rest period in
7 accordance with the applicable provisions of this order, the employer shall pay
8 the employee one (1) hour of pay at employee's regular rate of compensation
9 for each workday that the rest period is not provided;

10 c. Title 8 of the California Code of Regulations section 11160(18)(A), which
11 penalizes the employer \$50.00 for each initial violation, per employee, of any
12 provision of the Wage Order, and \$100.00 for each additional violation
13 thereafter per employee; and

14 d. California Labor Code Section 226.7, which states that (a) no employer shall
15 require any employee to work during any rest period mandated by an applicable
16 order of the IWC, and (b) if an employer fails to provide an employee a rest
17 period in accordance with an applicable order of the IWC, the employer shall
18 pay the employee one (1) additional hour of pay at employee's regular rate of
19 compensation for each work day that the rest period is not provided.

20 74. Plaintiff alleges that he was not authorized and permitted to take a ten (1) minute rest
21 break after every four (4) hours of work or major fraction thereof, as required by California
22 Law.

23 75. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
24 regulations, and wage orders alleged in this cause of action along with any allowable interest,
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1 penalties, attorney's fees and costs, and in an amount to be proven at trial. Specifically,
2 Plaintiff prays for the foregoing moneys calculated from 3 years immediately preceding the
3 filing of this lawsuit.

4 76. Plaintiff also prays for Labor Code Section 218.5 recovery of costs and attorney's fees
5 as well as interest under Labor Code Section 218.6.

6 **NINTH CAUSE OF ACTION**

7 **FAILURE TO GIVE MEAL BREAKS**

8 **(Plaintiff against all named defendants and all DOE defendants)**

9
10 77. Plaintiff re-alleges and incorporates by reference each and every allegation in
11 paragraphs 1 through 76, inclusive, of this Complaint as though fully set forth herein.

12 78. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 13 a. California Labor Code section 512(a), which requires that employees be given a
14 30-minute uninterrupted meal break after five (5) hours of work, and a second
15 uninterrupted meal break after ten (10) hours of work;
16
17 b. California Labor Code section 226.7, which states that (a) no employer shall
18 require any employee to work during any meal period mandated by an
19 applicable order of the Industrial Welfare Commission, and (b) if any employer
20 fails to provide an employee a meal period in accordance with an applicable
21 order of the Industrial Welfare Commission, the employer shall pay the
22 employee one (1) additional hour of pay at the employee's regular rate of
23 compensation for each workday that the meal period is not provided;
24
25 c. California Industrial Welfare Commission Order 16 section 10(B), as codified
26 under Title 8 of the California Code of Regulations Section 11160, which state
27 that if an employer fails to provide an employee a meal period in accordance
28

1 with the applicable provisions of the Wage Order, the employer shall pay the
2 employee one (1) hour of pay at the employee's regular rate of compensation
3 for each workday that the meal period is not provided;

- 4 d. California Industrial Welfare Commission Wage Order No. 16 Section 6(A)(3),
5 as codified under Title 8 of the California Code of Regulations Section 11160,
6 which require an employer to maintain records documenting its employees'
7 meal periods;
8
9 e. California Industrial Welfare Commission wage order No. 16 Section 18(A), as
10 codified under California Code of Regulations Section 11160, which penalizes
11 the employer \$50.00 for each initial violation, per employee, of any provision of
12 the Wage Order, and \$100.00 for each additional violation thereafter per
13 employee; and
14
15 f. California Labor Code section 1171 and 1173, which have given the California
16 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no.
17 16) as enforceable law.

18 79. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
19 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
20 take a second relieved meal break after ten (10) hours of work, as required by California law.
21 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
22 16, as codified under California Code of Regulations Sections 11160 et. seq., require that
23 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and
24 that the meal period be at least 30 minutes in length, wherein employee is relieved of all work
25 duty. California Labor Code section 226.7 provides that employers may not require their
26 employees to work through their meal periods. California Labor Code section 226.7 and
27
28

1 California Code of Regulations section 11160 require that if the employer fails to provide the
2 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
3 of pay for each work day that the meal period is not given.

4 ///

5 80. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
6 regulations, and wage orders alleged in this cause of action along with any allowable interest,
7 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
8 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
9

10 81. Plaintiff also prays for Labor Code Section 218.5 recovery of costs and attorney's fees
11 as well as interest under Labor Code Section 218.6

12 82. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
13 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
14 trial.

15 **TENTH CAUSE OF ACTION**

16 **FAILURE TO MAINTAIN ACCURATE RECORDS**

17 **(California Labor Code Section 1174(d))**

18 **(Plaintiff against all named defendants and all DOE defendants)**

19
20 83. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 82, inclusive, of this Complaint as though fully set forth herein.

22 84. Labor Code section 1174(d) requires that employers, including Defendants, maintain
23 accurate records showing the hours worked daily by its employees and to whom wages were
24 paid.

25 85. Additionally, the "Records" section of the applicable IWC Wage Order obligates the
26 employer, including Defendants, to keep accurate information with respect to each one of their
27 employees including, but not limited to, the total wages paid each payroll period, and time
28

1 records showing when the employee begins and ends each work period, meal periods, split
2 shift intervals; the total daily hours worked; the total hours worked in the payroll period, and
3 the applicable rates of pay.

4 86. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails
5 to maintain accurate and complete records required by Labor Code section 1174(d) is subject
6 to a penalty. On information and belief, Defendants intentionally failed to maintain accurate
7 records regarding Plaintiff's, including the applicable rates of pay and total wages earned for
8 the payroll period.

9 87. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and
10 continue to suffer substantial losses related to Defendants' failure to record and maintain
11 records of meal periods and time records/rates of pay.

12 88. Plaintiff seeks all available remedies for Defendants' violations including, but not
13 limited to penalties, and costs to the extent permitted by law.

14 **ELEVENTH CAUSE OF ACTION**

15 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

16 **(Plaintiff against all named defendants and all DOE defendants)**

17 89. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 88, inclusive, of this Complaint as though fully set forth herein.

19 90. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
20 employee for all necessary expenditures or losses incurred by the employee in direct
21 consequence of the discharge of his or her duties."

22 91. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
23 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
24 of completing his job duties, which were not reimbursed by Defendants. These expenses
25 include, but are not limited to, use of personal cell phones for work purposes and use of hand
26 tools/power tools for business purposes and in effectuating the work for CORR as mentioned
27 above. In terms of his personal cell phone, Plaintiff utilized his personal cell phone to clock in
28

1 and out of work on the “Harvest” application and also utilized his personal cell phone to
2 communicate with company management and ownership who would call or text Plaintiff on his
3 cell phone during work hours. Furthermore, Plaintiff and others were not compensated for
4 mileage in driving their personal vehicles to perform work-related tasks, such as picking up
5 material and tools for the employer.

6 92. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
7 and attorney’s fees and costs, under Labor Code section 2802.

8 **TWELFTH CAUSE OF ACTION**

9 **PRIVATE ATTORNEYS GENERAL ACT**

10 **Individual and Representative Claim for PAGA penalties under California Labor Code**
11 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 232, 246, 510, 512, 558,**
12 **1174, 1174.5, 1194, 1194.2, 1197, 1198, 2802, 3700.5)**

13 **(Plaintiff against all named defendants and all DOE defendants)**

14 93. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 92, inclusive, of this Complaint as though fully set forth herein.

16 94. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
17 Defendants of the specific violations of the California Labor Code that Defendants and DOE
18 defendants have violated and continue to violate.

19 95. Pursuant to California Labor code section 2699.3, no response was received from the
20 LWDA within 65 days of the postmark date of the above-alleged letter.

21 96. Plaintiff therefore has exhausted all administrative remedies required of him under
22 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
23 cause of action and pursue penalties in a representative action for Defendants’ violations of the
24 Labor Code.

25 97. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
26 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
27 departments, divisions, commissions, boards, agencies, or employees for violation of the code
28

1 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
2 on behalf of himself or herself and other current or former employees pursuant to the
3 procedures specified in California Labor Code section 2699.3.

4 98. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
5 violator and had one or more of the alleged violations committed against him, and therefore is
6 properly suited to represent the interests of other current and former hourly, non-exempt
7 employees who worked for Defendant in the State of California during the applicable PAGA
8 period.

9 99. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks
10 penalties under California Labor Code sections 2698 and 2699 because of Defendants’
11 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

12 100. Plaintiff therefore has exhausted all administrative remedies required of him under
13 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
14 cause of action and pursue penalties in a representative action for Defendants’ violations of the
15 Labor Code.

16 101. California Labor Code section 2699 et seq. imposes penalties upon culpable
17 Defendants for violating the Labor Code.

18 102. California Labor Code section 558 establishes a civil penalty as follows: Any
19 employer or other person action on behalf of an employer who violates, or causes to be
20 violated, a section of this chapter or any provision regulating hours and days of work in any
21 order of the Industrial Welfare Commission (including the “Hours and Days of Work” section
22 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
23 dollars (\$50) for each underpaid employee for each pay period for which the employee was
24 underpaid... (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
25 employee for each pay period for which the employee was underpaid...

26 103. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
27 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
28

1 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
2 employees in this specific cause of action under the Private Attorneys General Act.

3 104. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
4 the following:

5 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
6 226.3, 226.7, 232, 246, , 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198, 2802, and
7 3700.5 via 2698 and 2699 and any other Labor Codes and Industrial Welfare Commission
8 Wage Order (Wage Order No. 16 and others) violated based on the facts alleged in this
9 Complaint.

10 105. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
11 costs, civil penalties, and wages on behalf of Plaintiff and other current and former aggrieved
12 employees as alleged herein in an amount to be shown according to proof at trial and within the
13 jurisdictional limits of this Court.

14 **THIRTEENTH CAUSE OF ACTION**

15 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

16 **(Plaintiff against all Named Defendants and all DOE defendants)**

17 106. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 105, inclusive, of this Complaint as though fully set forth herein.

19 107. By virtue of this foregoing statutes, regulations, and laws, the acts of Defendants
20 constitutes unfair and unlawful business practices under California Business and Professions
21 Code Section 17200, et seq.

22 108. Defendants' violations of California labor laws constitutes a business practice because
23 it was done repeatedly over a significant period of time in a systematic manner that was
24 detrimental to Plaintiff and other similarly situated aggrieved employees.
25

26 109. For the four (4) years preceding the filing of this action, Plaintiff has suffered damages
27 and requests damages and/or restitution of all monies and profits to be disgorged from
28

1 Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of
2 this Court.

3 ///

4 ///

5 **PRAYER FOR RELIEF**

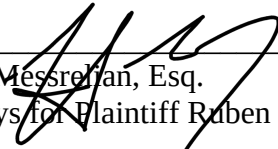
6 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
7 follows:

- 8 1. For compensatory damages according to proof, including wages for regular hours and
9 overtime hours worked;
- 10 2. For special and consequential damages to the extent allowed by law;
- 11 3. For restitution and disgorgement for all unfair business practices by Defendants
12 against Plaintiff in an amount according to proof;
- 13 4. For an order enjoining Defendants from further unfair and unlawful
14 business practices in violation of Business and Professions Code section 17200, et seq.;
- 15 5. For damages and penalties against Defendants under Labor Code section
16 226 for Plaintiff in an amount subject to proof at trial;
- 17 6. For damages and penalties pursuant to Labor Code section 203 against Defendants in
18 an amount subject to proof at trial;
- 19 7. For maximum civil penalties available under the Labor Code and applicable Wage
20 Order against Defendants as described more particularly in the Complaint and
21 representative PAGA notice;
- 22 8. For all remedies available to Plaintiff under the applicable Wage Order and the
23 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
24 liquidated damages, damages, penalties, and waiting time penalties according to proof
25 to the extent permitted by law;
- 26 9. For the imposition of civil penalties and/or statutory penalties;
- 27
- 28

10. Reasonable attorney's fees where available by law, including but not limited to,
pursuant to Labor Code section 2698 et seq., and other provisions of the Labor Code;
11. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
12. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half
(3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.
13. Costs and expenses of suit incurred herein;
14. For all interest as allowed by law;
15. For such other and further relief as the Court deems just and proper.

DATED: April 15, 2021

MESSRELIAN LAW INC.

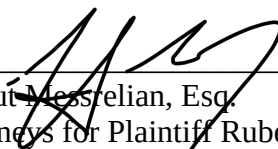
By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Ruben Chubac

DEMAND FOR JURY TRIAL

Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

DATED: April 15, 2021

MESSRELIAN LAW INC.

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Ruben Chubac