

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

INTENSE LIGHTING, LLC; and DOES 1 through 100, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ES A DEMANDANDO EL DEMANDANTE):

ANTON O DELGADO, on behalf of himself and others similarly situated,

NOTICE You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en forma o legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California
for the County of Orange
Central Justice Center
700 Civic Center Drive West
Santa Ana, CA 92701

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Anthony J. Orshansky
COUNSELLOR, PC
9301 Wilshire Blvd., Suite 650
Beverly Hills, CA 90210

(310) 277-9945

DATE: 09/01/2021

(Fecha) DAVID H. YAMASAKI, Clerk of the Court Clerk, by Georgina Ramirez, Deputy (Secretario) (Adjunto)

CASE NUMBER:
(Número del Caso)

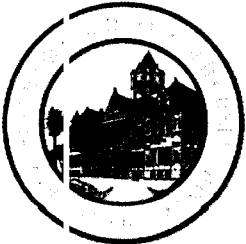
30-2021-01219686-CU-OE-CXC

Judge William Cluster

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): Intense Lighting, LLC
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☒ other (specify): Corps.C. § 17701.16 (service on LLC)
4. ☐ by personal delivery on (date):

30-2021-01219686-CU-OE-CXC, RDA # 3 - DAVID H. YAMASAKI, Clerk of the Court By Georgina Ramirez, Deputy Clerk.
COUNSELONE, PC
9301 Wilshire Blvd., Suite 650, Beverly Hills, CA 90210
TELEPHONE NO.: (310) 277-9945 FAX NO. (Optional): (424) 277-3727
E-MAIL ADDRESS: anthony@counselonegroup.com
ATTORNEY FOR (Name): Antonio Delgado, on behalf of himself and others similarly situated
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
STREET ADDRESS: 700 Civic Center Drive West 751 W. SANTA ANA BLVD
MAILING ADDRESS:
CITY AND ZIP CODE: Santa Ana, 92701
BRANCH NAME: Central Justice Center
CASE NAME:
Antonic Delgado v. Intense Lighting, LLC, et al.
CIVIL CASE COVER SHEET
Complex Case Designation
CASE NUMBER: 30-2021-01219686-CU-OE-CXC
JUDGE: Judge William Claster
DEPT:
Items 1-6 below must be completed (see instructions on page 2). CX-104

1. Check one box below for the case type that best describes this case:
Auto Tort
Contract
Provisionally Complex Civil Litigation
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
Real Property
Unlawful Detainer
Judicial Review
Employment
Miscellaneous Civil Complaint
Miscellaneous Civil Petition
2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
a. Large number of separately represented parties
b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. Substantial amount of documentary evidence
d. Large number of witnesses
e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Nine (9)
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
Date: September 1, 2021
Anthony J. Orshansky
(TYPE OR PRINT NAME)
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
• Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
• File this cover sheet in addition to any cover sheet required by local court rule.
• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (1; 2)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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6 Facsimile: (424) 277-3727

Assigned for all Purposes
Judge William Claster

CX-104

7 Attorneys for Plaintiff Antonio Delgado, on behalf of himself
and others similarly situated
8
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**
12

13 ANTONIO DELGADO, on behalf of himself
and others similarly situated,
14

15 Plaintiff,

16 v.

17 INTENSE LIGHTING, LLC; and DOES 1
18 through 100, inclusive,
19

20 Defendants.
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Case No.: 30-2021-01219686-CU-OE-CXC

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Liability under Labor Code
§ 226.7
4. Rest Break Liability under Labor Code
§ 226.7
5. Failure to Provide Accurate Itemized
Employee Wage Statements
6. Failure to Pay All Wages Owed Timely and
upon Separation of Employment
7. Violation of Labor Code § 1174(d)
8. Violation of Business & Professions Code
§§ 17200, et seq.
9. Penalties Pursuant to Labor Code § 2699

DEMAND FOR JURY TRIAL

1 Plaintiff ANTONIO DELGADO, an individual, ("Plaintiff"), on behalf of himself, the
2 State of California, and all others similarly situated, alleges and complains of defendant
3 INTENSE LIGHTING, LLC, and DOES 1 through 100, inclusive (collectively, "Defendants"),
4 and each of them, as follows:

5 **I. INTRODUCTION**

6 1. This is a class action pursuant to California Code of Civil Procedure section 382
7 on behalf of Plaintiff and the following class: *All current and former hourly paid or non-exempt*
8 *employees who worked for Intense Lighting, LLC, and/or its predecessor or merged entities,*
9 *within the State of California from January 11, 2017, and continuing to the present* (the "Class"
10 or "Class Members"). The parties entered into a tolling agreement prior to the filing of this
11 complaint that extends the putative class period back to January 11, 2017.

12 2. Throughout the time period involved in this case, Defendants willfully maintained
13 a consistent policy and/or practice of failing to pay all wages, including minimum wages, for all
14 hours worked; failing to pay all overtime wages; failing to provide timely duty-free meal periods;
15 failing to authorize and permit duty-free rest breaks; failing to maintain and provide accurate
16 itemized wage statements; and failing to pay all wages owed timely and upon separation of
17 employment. Defendants' illegal conduct has also given rise to derivative claims for unfair
18 business practices and violation of the Private Attorneys General Act of 2004 ("PAGA").

19 3. Plaintiff, on behalf of himself and all other similarly situated employees, pursuant
20 to California Business & Professions Code sections 17200 through 17208, also seeks all monies
21 owed but withheld and retained by Defendants to which Plaintiff and Class Members are entitled.
22 Plaintiff seeks an order by the Court awarding restitution, injunctive relief, and all other legal
23 and equitable relief allowed, plus interest, attorneys' fees and costs.

24 4. Plaintiff, on behalf of himself and all other similarly situated aggrieved employees
25 (the "Aggrieved Employees"), also brings this representative action against Defendants to
26 recover wages and penalties owed pursuant to Labor Code section 2699. Plaintiff was compelled
27 to retain the services of counsel to file this action to protect his interests and those of Aggrieved
28 Employees and has thereby incurred attorneys' fees and costs, which he is entitled to recover

1 under Labor Code section 2699.

2 5. For purposes of the allegations set forth herein, Class Members, along with
3 Aggrieved Employees comprising the PAGA representative action, are collectively referred to
4 as "Employees" except as otherwise specified.

5 **II. JURISDICTION AND VENUE**

6 6. This Court has jurisdiction over this action pursuant to the California Constitution,
7 Article VI, Section 10, which grants the superior court "original jurisdiction in all other causes"
8 except those given by statute to other courts. The statutes under which this action is brought do
9 not specify any other basis for jurisdiction.

10 7. This Court has jurisdiction over Defendants because, upon information and belief,
11 Defendants are citizens of California, have sufficient minimum contacts in California, or
12 otherwise intentionally avail themselves of the California market so as to render the exercise of
13 jurisdiction over them by California courts consistent with traditional notions of fair play and
14 substantial justice.

15 8. Venue as to Defendants is proper in this judicial district pursuant to Code of Civil
16 Procedure section 395.5 because, upon information and belief, the obligations giving rise to
17 liability occurred in part in the County of Orange, State of California.

18 9. This case should be classified as complex according to California Rules of Court,
19 Rule 3.400, and assigned to a complex litigation judge and department because it is a class action,
20 will involve substantial documentary evidence and a large number of witnesses, is likely to
21 involve extensive motion practice raising difficult or novel issues that will be time-consuming to
22 resolve, and would require substantial post judgment judicial supervision.

23 **III. PARTIES**

24 10. Plaintiff Antonio Delgado is a resident of California. At all relevant times herein,
25 Defendants employed Plaintiff as a non-exempt, hourly paid employee and subjected him to the
26 same employment policies and/or practices that affected Employees.

27 11. Plaintiff is informed and believes, and based thereon alleges, that Defendant
28 Intense Lighting, LLC is registered to do business in the State of California.

1 12. Plaintiff is informed and believes, and based thereon alleges, that Defendants do
2 business in the State of California and, at all times hereinafter mentioned, were and are employers
3 as defined in and subject to the Labor Code and Industrial Welfare Commission ("IWC") Wage
4 Orders, whose employees are engaged throughout this county and the State of California. During
5 the relevant period, Defendants employed Plaintiff and Employees within the State of California.

6 13. The true names and capacities, whether individual, corporate, associate, or
7 otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown
8 to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil
9 Procedure section 474. Plaintiff is informed and believes and based thereon alleges that each of
10 the defendants designated herein as DOE is legally responsible in some manner for the unlawful
11 acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the
12 true names and capacities of the defendants designated hereinafter as DOES when such identities
13 become known.

14 14. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
15 include DOES 1 through 100 identified herein.

16 15. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
17 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
18 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
19 Defendant are legally attributable to other Defendants. Plaintiff is further informed and believes
20 and based thereon alleges that Defendants are joint employers in that they employed Plaintiff and
21 Employees, at the same time and were operating as a joint enterprise and single entity at all
22 relevant time periods.

23 16. California courts have recognized that the definition of "employer" for purposes
24 of enforcement of the California Labor Code goes beyond the concept of traditional employment
25 to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of
26 California's labor laws. *Martinez v. Combs* (2010) 49 Cal. 4th 35, 65. As such, anyone who
27 directly or indirectly, or through an agent or any other person, engages, suffers, or permits any
28 person to work or exercises control over the wages, hours, or working conditions of any person

1 may be liable for violations of the California Labor Code as to that person.

2 17. California law also permits and recognizes the piercing of a corporate veil
3 between sister companies under the single enterprise rule. *Hasso v. Hapke* (2014) 227 Cal. App.
4 4th 107, 155; *Greenspan v. LADT, LLC* (2010) 191 Cal. App. 4th 486, 512. The single enterprise
5 rule applies where “there are two or more personalities, there is but one enterprise; and that this
6 enterprise has been so handled that it should respond, as a whole, for the debts of certain
7 component elements of it.” *Hasso, supra*, 227 Cal. App. 4th at 155; *Greenspan, supra*, 191 Cal.
8 App. 4th at 512.

9 18. At all times throughout their employment, Plaintiff and Employees were regularly
10 and consistently subject to the common policies and/or practices utilized by Defendants.

11 19. Accordingly, all Defendants engaged, suffered, and permitted Plaintiff and
12 Employees to perform services from which they benefitted. Moreover, the aforementioned
13 entities had the right to exercise control over the wages, hours, and/or working conditions over
14 Plaintiff and Employees at all relevant times herein, so as to be considered joint employers.

15 IV. FACTUAL BACKGROUND

16 Defendants Systematically Violated State Wage and Hour Laws

17 20. Defendants employed more than two hundred individuals in the State of
18 California during the relevant period. Defendants manufacture and market lighting products.

19 21. Plaintiff and Employees are nonexempt employees pursuant to the applicable
20 IWC Wage Order. This action seeks recovery for wages and compensation due and owing to
21 Plaintiff and Employees under California laws for the maximum period allowed to the present,
22 as set out herein.

23 22. Labor Code section 510 requires an employer to compensate an employee who
24 works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first
25 eight (8) hours worked on the seventh consecutive day no less than one and one-half times the
26 regular rate of pay for an employee. Further, Labor Code section 510 obligates employers to
27 compensate employees at no less than twice the regular rate of pay when an employee works
28 more than twelve (12) hours in a day or more than eight (8) hours on the seventh consecutive day

1 of work.

2 23. During the relevant period, Defendants have had a consistent policy and/or
3 practice of failing to pay overtime wages to Plaintiff and Employees for all overtime hours they
4 worked. The work times of Plaintiff and Employees have been, and continue to be, greater than
5 eight (8) hours per day and/or forty (40) hours per week. Yet, because Defendants did not pay
6 Plaintiff and Employees wages for, *inter alia*, hours that were worked off the clock, Plaintiff and
7 Employees were deprived wages at overtime premium amounts attributable to overtime hours.
8 Moreover, the overtime that was paid was short as Defendants incorrectly calculated the regular
9 rate for purposes of calculating overtime; Defendants failed to include non-discretionary forms
10 of pay including bonuses in its regular rate calculations for Plaintiff and Employees.

11 24. By their common policy and/or practice of requiring Plaintiff and Employees to
12 work in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without
13 compensating them at the applicable overtime rate of pay, Defendants willfully violated the
14 provisions of Labor Code sections 510 and 1198, as well as the relevant IWC Wage Orders.

15 25. Throughout the applicable period of time, Defendants did not pay Employees at
16 least the California minimum wage for all hours worked, violating Labor Code section 1194.
17 Pursuant to Labor Code section 1194.2, Plaintiff and Employees are entitled to recover liquidated
18 damages (double damages) for Defendants' failure to pay minimum wages.

19 26. Defendants failed to provide Plaintiff and Employees with timely duty-free meal
20 periods. Labor Code sections 226.7, 512, and the relevant IWC Wage Orders require employers
21 to provide employees with a thirty (30) minute uninterrupted and duty-free meal period within
22 the first five (5) hours of work. *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004,
23 1042 ("Accordingly, first meal periods must start after no more than five hours."). Moreover, an
24 employee who works more than ten (10) hours per day is entitled to receive a second thirty (30)
25 minute uninterrupted and duty-free meal period.

26 27. Defendants denied Plaintiff and Employees meal periods that comply with Labor
27 Code sections 226.7, 512, and the relevant IWC Wage Orders. By way of example, meal periods
28 were not always timely provided in that Plaintiff and Employees would have to work over five

1 (5) hours and/or over ten (10) hours without receiving a meal period. In addition, meal periods
2 were occasionally less than thirty (30) minutes because Plaintiff and Employees were asked by
3 Defendants and expected to work during meal periods. Plaintiff and Employees thus suffered
4 late, short, interrupted, and/or missed meal periods. Finally, Defendants' rounding policy and/or
5 practice for meal periods flouts California law. *See, Donohue v. AMN Services, LLC* (2021) 11
6 Cal. 5th 58.

7 28. Defendants were also obligated but failed to provide Plaintiff and Employees with
8 net ten (10) minute rest breaks for work shifts exceeding four (4) hours or a major fraction thereof
9 worked as required by Labor Code section 226.7 and the relevant IWC Wage Orders. Defendants
10 failed to provide Plaintiff and Employees with timely duty-free rest breaks. Further, Plaintiff and
11 Employees were not allowed to leave the workplace premises during rest breaks.

12 29. In addition to failing to authorize and permit compliant meal and rest breaks,
13 Plaintiff and Employees were not compensated with one (1) hour's worth of pay at their regular
14 rate of compensation when they were not provided with compliant meal and rest breaks in
15 accordance with Labor Code section 226.7(b).

16 30. Labor Code section 203 provides "if an employer willfully fails to pay...any
17 wages of an employee who is discharged or who quits, the wages of the employee shall continue
18 as a penalty..." for up to 30 days. Labor Code § 203; *Mamika v. Barca* (1998) 68 Cal. App. 4th
19 487, 492.

20 31. Due to Defendants' non-compliant policies and/or practices described herein,
21 Plaintiff and Employees whose employment with Defendants concluded were not compensated
22 for, *inter alia*, all straight-time and overtime hours worked, and were not paid all meal and rest
23 break premiums owed. Thus, Defendants have failed to pay Plaintiff and Employees all wages
24 owed, whose sums were certain, at the time of termination or within seventy-two (72) hours of
25 their resignation and have failed to pay those sums for thirty (30) days thereafter in violation of
26 Labor Code section 203.

27 32. Labor Code section 204 expressly requires that "[a]ll wages...earned by any
28 person in any employment are due and payable twice during each calendar month, on days

1 designated in advance by the employer as the regular paydays.” Pursuant to Labor Code section
2 204(d), these requirements are “deemed satisfied by the payment of wages for weekly, biweekly
3 or semimonthly payroll if the wages are paid not more than seven calendar days following the
4 close of the payroll period.” Due to Defendants’ failure to pay Plaintiff and Employees for, *inter*
5 *alia*, all straight-time and overtime hours worked, Defendants failed to timely pay Plaintiff and
6 Employees within seven (7) days of the close of the payroll period in accordance with Labor
7 Code section 204 on a regular and consistent basis.

8 33. Through Labor Code section 210 and the PAGA, and to the extent permitted by
9 law, Plaintiff and Aggrieved Employees are entitled to recover civil penalties for violations of
10 Labor Code section 204.

11 34. Plaintiff and Employees were not furnished with accurate itemized wage
12 statements that accurately showed their gross wages earned, net wages earned, premium
13 payments for meal and rest breaks, all applicable hourly rates and corresponding number of hours
14 worked at each hourly rate in effect during their pay periods, and other information required by
15 Labor Code section 226(a).

16 35. During the relevant period, Defendants have knowingly and intentionally failed
17 to provide Plaintiff and Employees with the above-described writing through actions alleged
18 herein in violation of Labor Code section 226. Plaintiff and Employees have been injured by
19 Defendants’ intentional violation of Labor Code section 226(a) because they were denied both
20 their legal right to receive, and their protected interest in receiving, accurate itemized wage
21 statements.

22 36. In addition, because Defendants failed to provide the accurate and mandated
23 information on the itemized wage statements, Plaintiff and Employees have been prevented by
24 Defendants from determining, *inter alia*, if all hours worked were paid and the extent of the
25 underpayment. Plaintiff has had to file this lawsuit and will be required to conduct discovery and
26 perform computations in order to analyze whether, and to what extent, Plaintiff and Employees
27 suffered underpayment, thereby causing Plaintiff to incur expenses and time lost. Thus, Plaintiff
28 and Employees are owed the greater of all actual damages or fifty dollars (\$50.00) for the initial

1 pay period in which a violation occurs and one hundred dollars (\$100.00) per employee for each
2 violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars
3 (\$4,000.00), as provided for in Labor Code section 226(e).

4 37. Further, for the violations described above, Plaintiff and Aggrieved Employees
5 may also recover civil penalties pursuant to Labor Code section 226.3 and the PAGA for
6 Defendants' violations of Labor Code section 226(a).

7 38. Additionally, Plaintiff and Employees have been denied their legal right and
8 protected interest in having available at a central location at the plant or establishment where they
9 are employed, accurate and complete payroll records showing the hours worked daily by, and the
10 wages paid to, Employees at those respective locations pursuant to Labor Code section 1174.
11 Pursuant to Labor Code section 1174.5 and the PAGA, Plaintiff and Aggrieved Employees may
12 also recover civil penalties for violation of Labor Code section 1174(d).

13 39. Based on the foregoing, Defendants have also engaged in unlawful and unfair
14 business practices in violation of California's Business and Professions Code sections 17200, *et*
15 *seq.*, thereby entitling Plaintiff and Class Members to restitution, disgorgement of profits, or other
16 equitable remedies.

17 V. CLASS ACTION ALLEGATIONS

18 40. Plaintiff brings this action on behalf of himself and all others similarly situated,
19 as a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a
20 proposed class comprised of and defined as follows:

21 *All current and former hourly paid or non-exempt employees who worked for*
22 *Intense Lighting, LLC, and/or its predecessor or merged entities, within the State*
23 *of California from January 11, 2017, and continuing to the present (again, "Class"*
or "Class Members").

24 40. Plaintiff reserves the right under California Rule of Court, Rule 3.765(b), to
25 amend or modify the class description identified herein with greater specificity or further division
26 into subclasses or limitation to particular issues.

27
28 42. This action has been brought and may properly be maintained as a class action

1 under the provisions of Code of Civil Procedure section 382 because there is a well-defined
2 community of interest in the litigation and the Class is easily ascertainable.

3 **A. Numerosity**

4 43. The potential members of the Class as defined are so numerous that joinder of all
5 the members of the Class is not practicable. Plaintiff is informed and believes that there are more
6 than two hundred Class Members employed by Defendants within the State of California during
7 the relevant period.

8 44. Plaintiff alleges Defendants' employment records would provide information as
9 to the number and location of all Class Members.

10 **B. Commonality**

11 45. There are questions of law and fact common to the Class that predominate over
12 any questions affecting only individual Class Members. These common questions of law and fact
13 include, without limitation:

- 14 a. Whether Defendants' failure to pay wages, without abatement or
15 reduction, in accordance with the California Labor Code, was willful;
16 b. Whether Defendants had a corporate policy and/or practice of failing to
17 pay Class Members for all hours worked in violation of California law;
18 c. Whether Defendants failed to pay at least the minimum wage to Class
19 Members for all hours worked;
20 d. Whether Defendants required Class Members to work over eight (8) hours
21 per day and/or over forty (40) hours per week and failed to pay the legally
22 required overtime compensation to Class Members;
23 e. Whether Defendants deprived Class Members of legally compliant meal
24 and rest breaks;
25 f. Whether Defendants required Class Members to work during meal and/or
26 rest breaks without compensation;

27 ///

- 28 g. Whether Defendants had a corporate policy and/or practice of failing to

1 pay Class Members required premium payments for noncompliant (short,
2 late, interrupted, and/or missed altogether) meal periods and rest breaks in
3 violation of California law;

4 h. Whether Defendants failed to timely pay all wages due to Class Members
5 during their employment;

6 i. Whether Defendants failed to pay all wages due to Class Members within
7 the required time upon their discharge or resignation;

8 j. Whether Defendants complied with wage reporting as required by the
9 California Labor Code, including, *inter alia*, section 226;

10 k. Whether Defendants kept complete and accurate payroll records as
11 required by the California Labor Code, including, *inter alia*, section
12 1174(d);

13 l. Whether Defendants' conduct was willful or reckless;

14 m. Whether Defendants engaged in unfair business practices in violation of
15 the Unfair Competition Law, Business and Professions Code sections
16 17200, *et seq.*;

17 n. Whether Class Members are entitled to compensatory damages pursuant
18 to the California Labor Code;

19 o. The appropriate amount of damages, restitution, and/or monetary penalties
20 resulting from Defendants' violation of California law;

21 p. Whether Class Members are entitled to attorneys' fees and costs; and

22 q. Whether Class Members are entitled to interest.

23 **C. Typicality**

24 46. The claims of Plaintiff are typical of the claims of the Class. Plaintiff and Class
25 Members sustained injuries and damages arising out of and caused by Defendants' common
26 course of conduct in violation of laws and regulations that have the force and effect of law and
27 statutes, as alleged herein.

28 **D. Adequacy of Representation**

1 47. Plaintiff will fairly and adequately represent and protect the interests of the Class.
2 Counsel who represent Plaintiff and Class Members are competent and experienced in litigating
3 wage and hour class and representative actions, and have the financial resources to litigate the
4 claims at issue.

5 E. **Superiority of Class Action**

6 48. A class action is superior to other available means for the fair and efficient
7 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
8 questions of law and fact common to the Class predominate over any questions affecting only
9 individual members of the Class. Each member of the Class has been damaged and is entitled to
10 recovery by reason of Defendants' illegal policy or practice of failing to properly pay minimum
11 wages and/or overtime for all hours worked, failing to provide timely duty-free meal periods
12 and/or pay premiums owed thereon, failing to authorize and permit duty-free rest breaks and/or
13 pay premiums owed thereon, failing to maintain and provide accurate itemized wage statements,
14 failing to pay all wages owed in a timely manner, failing to pay all wages due upon termination
15 and/or resignation, and engaging in unfair business practices.

16 49. Class action treatment will allow those similarly situated persons to litigate their
17 claims in a manner that is most efficient and economical for the parties and the judicial system.
18 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
19 action that would preclude its maintenance as a class action.

20 **FIRST CAUSE OF ACTION**

21 **FAILURE TO PAY MINIMUM WAGES**

22 **Cal. Labor Code §§ 1194, 1194.2, 1197, 1197.1, and the Relevant IWC Wage Orders**

23 **[On Behalf of Plaintiff and the Class against All Defendants]**

24 50. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by
25 reference all of the allegations contained in the preceding paragraphs of this Complaint as though
26 fully alleged herein.

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28 51. Throughout the period of time applicable to this cause of action, Defendants did

1 not pay Plaintiff and Class Members at least the California minimum wage for all hours worked,
2 thereby violating Labor Code section 1194 and the relevant IWC Wage Orders. Plaintiff and
3 Class Members performed off-the-clock work pre- and post- shift that was not recorded by
4 Defendants. Plaintiff and Class Members were suffered to work during meal periods, which time
5 was not compensated. Defendants engaged in the practice of rounding Plaintiff's and Class
6 Members' work time such that they were not fully compensated for all hours worked.

7 52. Defendants' failure to pay Plaintiff and Class Members the minimum wage as
8 required is unlawful and violates Labor Code sections 1194, 1194.2, 1197, and 1197.1. As a
9 result, Plaintiff and Class Members are entitled to recover the unpaid balance of their minimum
10 wage compensation, as well as interest, costs, and attorney's fees and liquidated damages in an
11 amount equal to the wages unlawfully unpaid and interest thereon.

12 **SECOND CAUSE OF ACTION**

13 **FAILURE TO PAY ALL OVERTIME WAGES**

14 **Cal. Labor Code §§ 510 and 1198 and the Relevant IWC Wage Orders**

15 **[On Behalf of Plaintiff and the Class against All Defendants]**

16 53. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by
17 reference all of the allegations contained in the preceding paragraphs of this Complaint as though
18 fully set forth herein.

19 54. At all times relevant to this Complaint, Labor Code section 510(a) was in effect
20 and provided: "Eight hours of labor constitutes a day's work. Any work in excess of eight hours
21 in one workday and any work in excess of forty hours in any one workweek...shall be
22 compensated at the rate of no less than one and one-half times the regular rate of pay for an
23 employee."

24 55. Pursuant to the relevant IWC Wage Orders, an employee shall not be employed
25 more than eight (8) hours in any workday and/or more than forty (40) hours in any workweek
26 unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for
27 all hours worked over eight (8) hours in any workday and/or more than forty (40) hours in any
28 workweek. Further, an employer must compensate employees at no less than twice the regular rate

1 of pay when an employee works more than twelve (12) hours in a day or more than eight (8) hours
2 on the seventh consecutive day of work.

3 56. At all times mentioned, Plaintiff and the Class regularly worked shifts that
4 consisted of more than eight (8) hours in a workday and/or more than forty (40) hours in a
5 workweek and were not paid proper overtime wages for all overtime hours worked as a result of,
6 but not limited to, Defendants' failure to pay for work performed off the clock, including pre-
7 and post-shift, and during meal periods. Defendant's practice of rounding Plaintiff's and Class
8 Members' work time also resulted in the undercounting and ultimately underpayment of all
9 overtime hours worked. Moreover, the overtime that was paid was short as Defendants
10 incorrectly calculated the regular rate for purposes of calculating overtime; Defendants failed to
11 include non-discretionary forms of pay including bonuses in its regular rate calculations for
12 Plaintiff and Class Members.

13 57. Accordingly, by requiring Plaintiff and the Class to work in excess of eight (8)
14 hours per day and/or forty (40) hours per week without properly compensating them overtime
15 wages, as described above, Defendants willfully violated the provisions of Labor Code section
16 1194.

17 58. As a result of the unlawful acts of Defendants, Plaintiff and the Class have been
18 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery of
19 such amounts, plus interest and penalties thereon, costs, and attorneys' fees.

20 **THIRD CAUSE OF ACTION**

21 **FAILURE TO PROVIDE MEAL PERIODS**

22 **Cal. Labor Code §§ 226.7, 512, and the Relevant IWC Wage Orders**

23 **[On Behalf of Plaintiff and the Class against All Defendants]**

24 59. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by
25 reference all of the allegations contained in the preceding paragraphs of this Complaint as though
26 fully alleged herein.

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1 60. Labor Code section 226.7 provides “an employer shall not require an employee
2 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
3 applicable regulation, standard, or order of the Industrial Welfare Commission (“IWC”).”
4 Similarly, Labor Code section 512 and the IWC Wage Orders require employers to provide
5 employees with thirty (30) minute uninterrupted and duty-free meal periods within the first five
6 (5) hours of work. *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1042
7 (“Accordingly, first meal periods must start after no more than five hours.”) Moreover, an
8 employee who works more than ten (10) hours per day is entitled to receive a second thirty (30)
9 minute uninterrupted and duty-free meal period.

10 61. Despite these legal requirements, Defendants failed to always provide meal
11 periods that comply with Labor Code sections 512, 226.7, and the IWC Wage Orders. Plaintiff
12 and Class Members experienced short, untimely and interrupted meal periods, and on occasion,
13 the demands of employee job duties were such that they were prevented from taking a meal
14 period altogether. Defendants’ practice of rounding time punches also contributed to Plaintiff
15 and Class Members receiving untimely or shortened meal periods. Having been thus subjected
16 to late, short, interrupted, and missed meal periods, Plaintiff and Class Members did not receive
17 their statutorily mandated meal periods.

18 62. To the extent Defendants claim that Plaintiff and Class Members waived their
19 rights to second meal periods for shifts worked in excess of ten (10) hours, the waivers are not
20 applicable to those occasions when Plaintiff and Class Members worked shifts in excess of twelve
21 (12) hours a day and/or to the extent the waivers are ineffective on-duty meal period agreements
22 where the nature of the work does not prevent them from being relieved of all duties.

23 63. Under Labor Code section 226.7 and the relevant IWC Wage Orders, Plaintiff and
24 each Class Member is entitled to be paid one (1) hour of additional wages at the regular rate of
25 pay for each day he or she was not provided with all required meal periods. Defendants failed to
26 pay Plaintiff and Class Members the additional wages to which they were entitled for non-
27 compliant meal periods.

64. As a result, Defendants are liable to Plaintiff and each Class Member for one (1) hour of additional wages for each workday a compliant meal period was not provided.

FOURTH CAUSE OF ACTION

FAILURE TO AUTHORIZE AND PERMIT REST BREAKS

Cal. Labor Code § 226.7 and the Relevant IWC Wage Orders

[On Behalf of Plaintiff and the Class against All Defendants]

65. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully alleged herein.

66. Under the applicable IWC Wage Orders, an employer must authorize and permit all employees to take ten (10) minute duty free rest breaks for every major fraction of four hours worked. Labor Code section 226.7 provides “an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission.”

67. Defendants are required by California law to authorize and permit breaks of ten (10) uninterrupted minutes for each four hours of work or major fraction thereof (i.e., more than two hours). That is, the required number of rest breaks is equal to the number of work hours divided by four, and if the work time is not evenly divisible by four, any remainder of two hours or less is rounded down and that which exceeds two hours is rounded up. For example, if a Class Member’s work time is six hours and ten minutes, he or she is entitled to two rest breaks. If the work time is nine hours, the employee is still entitled to only two rest breaks. (There is an exception: if the shift is under three and one-half hours, no rest break is required.) Each failure to authorize rest breaks as so required is itself a violation of California’s rest break laws.

68. Despite these legal requirements, Defendants failed to authorize and permit Plaintiff and Class Members to take timely, duty-free rest breaks. Plaintiff and Class Members were subject to policies and/or practices that prevented them from taking legally compliant rest breaks. Defendants did not relieve Plaintiff and Class Members of all duties during their rest breaks and occasionally required them to be available to continue working – or, in fact,

1 interrupted them – during their rest breaks. Notwithstanding any formal written policy to the
2 contrary, Defendants’ actual custom and business practice was to undermine any formal policy
3 of permitting rest breaks by pressuring Class Members to perform their duties in a way that
4 omitted breaks, including, but not limited to, scheduling a heavy workload that made taking
5 breaks extremely difficult, maintaining an informal anti-rest break policy enforced through
6 ridicule or reprimand, and exerting coercion against the taking of, creating incentives to forego,
7 or otherwise encouraging the skipping of legally protected breaks. Here, as a companywide
8 practice and in fact, Defendants did not offer Plaintiff and Class Members the opportunity to
9 receive compliant off-duty rest breaks and, thus, “the court may not conclude employees
10 voluntarily chose to skip...breaks.” *Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal.
11 App. 4th 388, 410 (“[i]f an employer fails to provide legally compliant meal or rest breaks, the
12 court may not conclude employees voluntarily chose to skip those breaks.”); *accord, Brinker* 53
13 Cal. 4th at 1033 (“No issue of waiver ever arises for a rest break that was required by law but
14 never authorized; if a break is not authorized, an employee has no opportunity to decline to take
15 it.”)

16 69. In *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, the court
17 expressly rejected the employer’s assertion that it could provide an on-duty rest break to
18 employees who worked as security guards and further explained “that employers [must]
19 relinquish any control over how employees spend their break time, and relieve their employees
20 of all duties.” *Id.* at 273. During breaks employers must relieve employees of all duties and
21 relinquish control over how employees spend their time. However, Defendants did not allow
22 Plaintiff and Class Members to leave the workplace premises during rest breaks.

23 70. Plaintiff and Class Members were not compensated with one (1) hour’s worth of
24 pay at their regular rate of compensation when they were not provided with compliant rest breaks
25 in accordance with Labor Code section 226.7(b).

26 71. As a result, Defendants are liable to Plaintiff and Class Members for one (1) hour
27 of additional of pay at their regular rates of compensation for each workday when a compliant
28 rest break was not provided, in a sum to be proven at trial.

1 **FIFTH CAUSE OF ACTION**

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

3 **Cal. Labor Code §§ 226 and 226.3**

4 **[On Behalf of Plaintiff and the Class against All Defendants]**

5 72. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by
6 reference all of the allegations contained in the preceding paragraphs as though fully set forth
7 herein.

8 73. Labor Code section 226(a) requires employers, semi-monthly or at the time or each
9 payment of wages, to furnish employees an accurate itemized statement in writing showing:

- 10 (1) gross wages earned;
- 11 (2) total hours worked by the employee;
- 12 (3) the number of piece-rate units earned and any applicable piece rate if the
13 employee is paid on a piece rate;
- 14 (4) all deductions, provided that all deductions made on written orders of the
15 employee may be aggregated and shown as one item;
- 16 (5) net wages earned;
- 17 (6) the inclusive dates of the period for which the employee is paid;
- 18 (7) the name of the employee and only the last four digits of his or her social
19 security number or an employee identification number other than a social
20 security number;
- 21 (8) the name and address of the legal entity that is the employer...; and
- 22 (9) all applicable hourly rates in effect during the pay period and the corresponding
23 number of hours worked at each hourly rate by the employee....

24 74. During the relevant time period, due to Defendants' failure to provide, *inter alia*,
25 Plaintiff and Class Members with lawful meal periods and rest breaks (and pay missed meal and
26 rest break premiums at the appropriate rate thereon), along with the failure to pay minimum and
27 overtime wages, the wage statements issued by Defendants, at a minimum, do not indicate the
28 correct amount of gross wages earned, the correct total hours worked, the correct net wages

1 earned, or the applicable and/or correct hourly rates in effect during the pay period and the
2 corresponding number of hours worked at each hourly rate in violation of Labor Code section
3 226(a)(1), (2), (5), and (9).

4 75. An employee suffering injury as a result of a knowing and intentional failure by
5 an employer to comply with Labor Code section 226(a) is entitled to recover the greater of all
6 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurs and
7 one hundred dollars (\$100.00) per employee for each violation in a subsequent pay period, not
8 exceeding an aggregate penalty of four thousand dollars (\$4,000.00), and is entitled to an award
9 of costs and reasonable attorneys' fees.

10 76. The absence of accurate information on their wage statements has delayed timely
11 challenge to Defendants' unlawful pay practices, requires discovery and mathematical
12 computations to determine the amount of wages owed, causes difficulty and expense in
13 attempting to reconstruct time and pay records, and led to submission of inaccurate information
14 about wages and amounts deducted from wages to state and federal governmental agencies.
15 Plaintiff would not have had to engage in these efforts and incur these costs had Defendants
16 provided accurate wage statements. This also delayed Plaintiff's ability to demand and recover
17 the underpayment of wages from Defendants.

18 77. Thus, Plaintiff and Class Members have been injured by Defendants' intentional
19 violation of Labor Code section 226(a) because they were denied both their legal right to receive,
20 and their protected interest in receiving, accurate itemized wage statements.

21 78. Plaintiff and Class Members are thus entitled to recover from Defendants the
22 greater of their actual damages caused by Defendants' failure to comply with Labor Code section
23 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000.00) per employee
24 pursuant to Labor Code section 226(e), and/or any other allowable penalties including those
25 pursuant to Labor Code section 226.3.

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1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES WITHIN A TIMELY MANNER**

3 **AND UPON SEPARATION OF EMPLOYMENT**

4 **Cal. Labor Code §§ 201, 202, 203, 204, and 210**

5 **[On Behalf of Plaintiff and the Class against All Defendants]**

6 79. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by
7 reference all of the allegations contained in the preceding paragraphs of this Complaint as though
8 fully alleged herein.

9 80. Labor Code sections 201 and 202 provide that if an employer discharges an
10 employee, the wages earned and unpaid at the time of discharge are due and payable immediately,
11 and that if an employee voluntarily leaves his employment, his or her wages shall become due
12 and payable not later than seventy-two (72) hours thereafter, unless the employee has given
13 seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee
14 is entitled to his or her wages at the time of quitting.

15 81. Labor Code section 203 provides that if an employer willfully fails to pay
16 compensation promptly upon discharge or resignation, as required by sections 201 and 202, then
17 the employer is liable for penalties in the form of continued compensation up to thirty (30) days.

18 82. As alleged herein and above, Defendants' failure to pay wages was willful in that
19 Defendants knew wages (e.g., for off-the-clock work, unpaid premiums) were owed to Plaintiff
20 and Class Members, but failed to pay said wages, at the time of termination, or within 72 hours
21 of resignation, thus entitling Plaintiff and Class Members to penalties under Labor Code section
22 203, which provides that an employee's wages shall continue as a penalty until paid for a period
23 of up to thirty (30) days from the time they were due.

24 83. Labor Code section 204 requires that all wages earned by any person in any
25 employment between the 1st and 15th day, inclusive, of any calendar month, other than those
26 wages due upon termination of an employee, are due and payable between the 16th and the 26th
27 day of the month during which the labor was performed, and that all wages earned by any person
28 in any employment between the 16th and the last day, inclusive, of any calendar month, other

1 than those wages due upon termination of an employee, are due and payable between the 1st and
2 10th day of the following month. Section 204 also requires that all wages earned for labor in
3 excess of the normal work period shall be paid no later than the payday for the next regular
4 payroll period.

5 84. The requirements of Labor Code section 204 shall be deemed satisfied by the
6 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more
7 than seven calendar days following the close of the payroll period when the wages were earned.

8 85. During the relevant time period, Defendants failed to pay Plaintiff and Class
9 Members all wages due to them within any time period specified by Labor Code section 204
10 including, but not limited to, unpaid minimum and overtime wages, along with unpaid meal and
11 rest break premiums.

12 86. Labor Code section 210 imposes upon Defendants a penalty of \$100.00 for each
13 violation of failing to pay the wages of each employee. Furthermore, Labor Code section 210
14 imposes upon Defendants for each subsequent violation, or any willful or intentional violation,
15 of failure to pay the wages of each employee a penalty of \$200.00, plus 25 percent of the amount
16 unlawfully withheld.

17 87. Pursuant to Labor Code sections 218.5 and 218.6, along with California Civil
18 Code sections 3287(b) and 3289, Plaintiff requests that the Court award reasonable attorneys'
19 fees and the costs incurred by them in this action, along with pre-judgment interest on all amounts
20 recovered herein, as well as any statutory penalties Defendants may owe under the California
21 Labor Code and/or any other statute.

22 **SEVENTH CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE § 1174(d))**

24 **[On Behalf of Plaintiff and the Class against All Defendants]**

25 88. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by
26 reference all of the allegations contained in the preceding paragraphs of this Complaint as though
27 fully alleged herein.

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89. Pursuant to Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years.

90. Defendants have intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily by and the wages paid to Plaintiff and Class Members.

91. As a result of Defendants' violation of Labor Code section 1174(d), Plaintiff and Class Members have suffered injury and damage to their statutorily protected rights.

92. More specifically, Plaintiff and Class Members have been injured by Defendants' intentional and willful violation of Labor Code section 1174(d) because they were denied both their legal right and protected interest in having available, accurate, and complete payroll records pursuant to Labor Code section 1174(d).

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION LAW VIOLATIONS

Cal. Business & Professions Code §§ 17200, *et seq.*

[On Behalf of Plaintiff and the Class against All Defendants]

93. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

94. The Unfair Competition Law (“UCL”), California Business & Professions Code sections 17200, *et seq.*, prohibits any unlawful, unfair, or fraudulent business practices. Business & Professions Code section 17204 allows “any person who has suffered injury in fact and has lost money or property” to prosecute a civil action for violation of the UCL. Such a person may bring such an action on behalf of himself or herself and others similarly situated who are affected by the unlawful, unfair, or fraudulent business practice.

1 95. The statute of limitations for a claim under the UCL is four years. Accordingly,
2 the actionable period for this cause of action is four years prior to the filing of this Complaint
3 through the present, and on-going until the violations are corrected and/or the Class is certified.

4 96. Labor Code section 90.5(a) states that it is the public policy of California to
5 vigorously enforce minimum labor standards in order to ensure employees are not required to
6 work under substandard and unlawful conditions, and to protect employers who comply with the
7 law from those who attempt to gain competitive advantage at the expense of their workers by
8 failing to comply with minimum labor standards.

9 97. A violation of Business and Professions Code sections 17200, *et seq.* may be
10 predicated upon the violation of any state or federal law. Defendants' policies and/or practices
11 have violated state law in at least the following respects:

12 (a) Requiring Plaintiff and Class Members to work without paying them minimum
13 wage for all hours worked in violation of Labor Code sections 1194, 1194.2, 1197, and the
14 applicable IWC Wage Orders;

15 (b) Requiring Plaintiff and Class Members to work overtime without paying them
16 proper compensation in violation of Labor Code sections 510, 1198, and the applicable IWC
17 Wage Orders;

18 (c) Failing to provide timely duty-free meal periods to Plaintiff and Class Members
19 and failing to authorize and permit duty-free rest breaks to Plaintiff and Class Members in
20 violation of Labor Code sections 226.7, 512, and the applicable IWC Wage Orders;

21 (d) Failing to timely pay all wages to Plaintiff and Class Members during their
22 employment and upon separation of employment, in violation of Labor Code sections 201, 202,
23 203, 204, and 210; and

24 (e) Failing to maintain and provide Plaintiff and Class Members with accurate
25 itemized wage statements, in violation of Labor Code section 226.

26 Thus, Defendants engaged in unlawful competition in violation of sections 17200, *et seq.*
27 of the California Business & Professions Code by violating sections 201, 202, 203, 204, 210,
28 226, 226.7, 510, 512, 1194, 1194.2, and 1197 of the Labor Code and the applicable IWC Wage

1 Orders.

2 98. As a direct and proximate result of Defendants' unlawful business practices,
3 Plaintiff and Class Members have suffered economic injuries because Defendants' conduct has
4 damaged Plaintiff and Class Members by wrongfully denying them all wages, including
5 minimum and overtime wages, and failing to pay all meal and rest breaks premiums owed, along
6 with the corresponding interest, in a timely manner and upon separation, and while supplying
7 them inaccurate and misleading wage statements. Such conduct is substantially injurious to
8 Plaintiff and Class Members.

9 99. Additionally, Defendants intentionally avoided paying Plaintiff and Class
10 Members wages and monies, thereby creating for Defendants an artificially lower cost of doing
11 business in order to undercut their competitors and establish a greater foothold in the
12 marketplace. Through their actions alleged herein, Defendants have engaged in unfair
13 competition within the meaning of section 17200 of the California Business & Professions Code.

14 100. Defendants have profited from their unlawful, unfair, and/or fraudulent acts and
15 practices. Plaintiff and Class Members are entitled to monetary relief pursuant to the California
16 Business & Professions Code sections 17203 and 17208 from at least four years prior to the filing
17 of this Complaint through the date of such restitution, at rates specified by law. Defendants
18 should be required to disgorge all the profits and gains they have reaped and restore such profits
19 and gains to Plaintiff and Class Members, from whom they were unlawfully taken.

20 101. Defendants' course of conduct, acts, and practices in violation of the California
21 laws mentioned above constitute independent violations of sections 17200, *et seq.* of the
22 California Business & Professions Code.

23 102. Plaintiff and Class Members are entitled to enforce all applicable penalty
24 provisions of the Labor Code pursuant to California Business & Professions Code section 17202.

25 103. Plaintiff has assumed the responsibility of enforcement of the laws and public
26 policies specified herein by suing on behalf of himself and Class Members previously or
27 presently employed by Defendants in California. Plaintiff's success in this action will enforce
28 important rights affecting the public interest. Plaintiff will incur a financial burden in pursuing

1 this action in the public interest. Therefore, an award of reasonable attorneys' fees to Plaintiff is
2 appropriate pursuant to Code of Civil Procedure section 1021.5.

3 **NINTH CAUSE OF ACTION**

4 **PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

5 **Cal. Labor Code §§ 2698, *et seq.***

6 **[On Behalf of Plaintiff and Aggrieved Employees against All Defendants]**

7 104. Plaintiff, on behalf of himself and Aggrieved Employees, re-alleges and
8 incorporates by reference all of the allegations contained in the previous paragraphs of this
9 Complaint as though fully set forth herein.

10 105. Plaintiff, on behalf of himself and Aggrieved Employees, brings this
11 representative action against Defendants to recover wages and penalties pursuant to the Private
12 Attorneys General Act of 2004 ("PAGA"), Labor Code sections 2698, *et seq.*

13 106. Based on the above allegations incorporated by reference, Defendants have
14 violated Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1174.5,
15 1194, 1194.2, 1197, 1197.1, and 1198, as well as the applicable IWC Wage Orders.

16 107. Under Labor Code sections 2699(f)(2) and 2699.5, Plaintiff and Aggrieved
17 Employees are entitled to penalties in an amount to be shown at the time of trial subject to the
18 following formula:

19 \$100 for the initial violation per employee per pay period; and

20 \$200 for each subsequent violation per employee per pay period.

21 These penalties shall be allocated seventy-five percent (75%) to the Labor and Workforce
22 Development Agency (LWDA) and twenty-five percent (25%) to the affected employees.

23 108. Defendants failed to provide Plaintiff and Aggrieved Employees with accurate
24 itemized wage statements in compliance with Labor Code section 226(a). Plaintiff seeks separate
25 PAGA penalties for Defendants' violations of Labor Code section 226(a) and (e). *Lopez v. Friant*
26 *& Assocs., LLC* (2017) 15 Cal. App. 5th 773, 788; *Bell v. Home Depot U.S.A.* (E.D. Cal. Dec.
27 11, 2017) No. 2:12-cv-02499 JAM-CKD, 2017 U.S. Dist. LEXIS 204493, at *5 [finding after
28 *Friant* that "[t]o the extent the Court's Order [granting summary judgment to *Home Depot*] was

1 ambiguous, the Court now clarifies that it granted summary judgment on Plaintiffs' derivative
2 claim for [PAGA] penalties under section 226(e)...the Court's Order should not be read to grant
3 summary judgment on Plaintiffs' claim for PAGA penalties based on violation of section
4 226(a.)"). For violations of Labor Code section 226(a), Plaintiff seeks the default penalty
5 provided by Labor Code section 226.3. Labor Code section 226.3 provides that "[a]ny employer
6 who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of
7 two hundred fifty dollars (\$250) per employee per violation in an initial violation and one
8 thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the
9 employer fails to provide the employee a wage deduction statement or fails to keep the required
10 records in subdivision (a) of Section 226." Accordingly, through PAGA and to the extent
11 permitted by law Plaintiff and Aggrieved Employees are entitled to recover penalties for
12 violations of Labor Code section 226.3 and seek default PAGA penalties for each of Defendants'
13 numerous violations of Labor Code section 226(a).

14 109. Labor Code section 210 provides that "[i]n addition to, an entirely independent
15 and apart from, any other penalty provided in this article, every person who fails to pay the wages
16 of each employee as provided in Sections...204...shall be subject to a civil penalty as follows:
17 (1) [f]or any initial violation, one hundred dollars (\$100) for each failure to pay each employee;
18 (2) [f]or each subsequent violation, or any willful or intentional violation, two hundred dollars
19 (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully
20 withheld." As a result of the faulty compensation policies and practices, Plaintiff and Aggrieved
21 Employees are also entitled to recover penalties under Labor Code section 210 through PAGA.

22 110. Labor Code section 1197.1 authorizes a civil penalty, restitution of wages, and
23 liquidated damages, in the amount of: "(1) [f]or any initial violation that is intentionally
24 committed, one hundred dollars (\$100) for each underpaid employee for each pay period for
25 which the employee is underpaid...[and] (2) [f]or each subsequent violation for the same specific
26 offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for
27 which the employee is underpaid regardless of whether the initial violation is intentionally
28 committed." Accordingly, through PAGA and to the extent permitted by law, Plaintiff and

1 Aggrieved Employees are entitled to recover pursuant to Labor Code section 1197.1.

2 111. Plaintiff has fully and completely exhausted his administrative remedies under
3 PAGA prior to proceeding with the PAGA claim. On January 11, 2021, Plaintiff filed his PAGA
4 Notice online with the LWDA and sent a letter by certified mail to Defendant Intense Lighting,
5 LLC setting forth the facts and theories of the violations alleged against Defendants, as prescribed
6 by Labor Code sections 2698, *et seq.* As required by PAGA, Plaintiff submitted the \$75.00 filing
7 fee with the LWDA. Pursuant to Labor Code section 2699.3(a)(2)(A), no notice was received by
8 Plaintiff from the LWDA evidencing its intention to investigate within sixty-five (65) calendar
9 days of the postmark date of the PAGA notice. Plaintiff is therefore entitled to commence and
10 proceed with a civil action pursuant to Labor Code section 2699.

11 112. Plaintiff, as a personal representative of the general public, will and does seek to
12 recover any and all penalties for each and every violation shown to exist or to have occurred
13 during the PAGA period, in an amount according to proof, as to those penalties that are otherwise
14 only available to public agency enforcement actions. Funds recovered will be distributed in
15 accordance with the PAGA, with 75% of the penalties recovered being reimbursed to the State
16 of California and the LWDA.

17 113. Plaintiff was compelled to retain the services of counsel to file this action to
18 protect his interests and those of Aggrieved Employees, and to assess and collect the wages and
19 penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he
20 is entitled to recover under Labor Code section 2699(g)(1).

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff prays for the following relief:

- 23 1. For an order certifying this action as a class action;
- 24 2. For compensatory damages in the amount of the unpaid minimum wage and
25 overtime compensation for work performed by Plaintiff and Class Members, as may be proven;
- 26 3. For liquidated damages in the amount equal to the unpaid minimum wage and
27 interest thereon, as may be proven;

28 ///

1 4. For compensatory damages in the amount of the hourly wage made by Plaintiff
2 and Class Members for each noncompliant meal period for which premium pay was not paid, as
3 may be proven;

4 5. For compensatory damages in the amount of the hourly wage made by Plaintiff
5 and Class Members for each day of noncompliant rest breaks for which premium pay was not
6 paid, as may be proven;

7 6. For penalties pursuant to Labor Code section 203 for Plaintiff and Class Members
8 who quit or were fired in an amount equal to their daily wage multiplied by thirty (30) days, as
9 may be proven;

10 7. For actual damages and/or penalties pursuant to Labor Code section 226(e) for
11 Plaintiff and Class Members, as may be proven;

12 8. For restitution for unfair competition pursuant to the California Business &
13 Professions Code sections 17200, *et seq.*, including disgorgement of profits, as may be proven;

14 9. For a civil penalty in the amount of \$100.00 for the initial violation and \$200.00
15 for each subsequent violation as specified in section 2699(f)(2) of the Labor Code in the
16 representative action brought on behalf of Plaintiff and Aggrieved Employees pursuant to the
17 Private Attorneys General Act of 2004;

18 10. For all civil penalties available under section 210 of the Labor Code and the
19 Private Attorneys General Act of 2004;

20 11. For all civil penalties available under section 226.3 of the Labor Code and the
21 Private Attorneys General Act of 2004;

22 12. For all civil penalties available under section 1174.5 of the Labor Code and the
23 Private Attorneys General Act of 2004;

24 13. For all civil penalties available under section 1197.1 of the Labor Code and the
25 Private Attorneys General Act of 2004;

26 14. For an order enjoining Defendants and their agents, servants, and employees, and
27 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
28 duties adumbrated in this complaint;

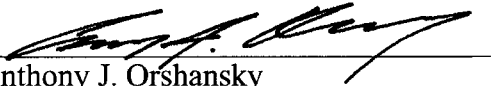
- 1 15. For an award of pre-judgment and post-judgment interest;
2 16. For an award providing for the payment of the costs of this suit;
3 17. For an award of attorneys' fees, to the extent provided by law; and
4 18. For such other and further relief as the Court may deem proper and just.

5 Respectfully submitted,

6 Dated: September 1, 2021

COUNSELONE, PC

8 By



9 Anthony J. Orshansky
10 Jennifer L. Connor
11 Justin Kachadoorian
12 Attorneys for Plaintiff, putative Class
13 Members, and Aggrieved Employees

14 **DEMAND FOR JURY TRIAL**

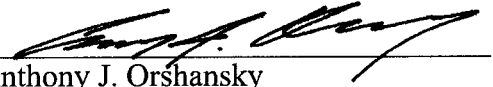
15 Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

16 Respectfully submitted,

17 Dated: September 1, 2021

COUNSELONE, PC

18 By



19 Anthony J. Orshansky
20 Jennifer L. Connor
21 Justin Kachadoorian
22 Attorneys for Plaintiff, putative Class
23 Members, and Aggrieved Employees
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