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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

MAY 03 2021

BY   
GLORIA MARIN, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO**

ROBERTO NAVARRO, as an individual and  
on behalf of all others similarly situated,

Plaintiff,

vs.

PRIME CONVERTING CORPORATION, a  
California Corporation; and DOES 1 through  
100,

Defendants.

Case No.: CIVSB2106868

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

- (1) MINIMUM WAGE VIOLATIONS  
(LABOR CODE §§1182.12, 1194,  
1194.2, 1197, 1198);
- (2) FAILURE TO PAY ALL  
OVERTIME WAGES (LABOR  
CODE §§ 204, 510, 558, 1194, 1198);
- (3) MEAL PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 512, 558);
- (4) REST PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 516, 558);
- (5) UNLAWFUL DEDUCTIONS FROM  
EARNED WAGES (LABOR CODE  
§§ 221-223);
- (6) WAGE STATEMENT  
VIOLATIONS (LABOR CODE §  
226 *et seq.*);
- (7) WAITING TIME PENALTIES  
(LABOR CODE §§ 201-203);
- (8) UNFAIR COMPETITION (BUS &  
PROF CODE § 17200 *et seq.*); and

**(9) CIVIL PENALTIES UNDER  
THE PRIVATE ATTORNEYS  
GENERAL ACT (LABOR CODE  
§ 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL  
UNLIMITED CIVIL CASE**

1 Plaintiff Roberto Navarro (hereinafter “Plaintiff”) on behalf of himself and all others  
2 similarly situated, hereby brings this First Amended Class and Representative Action Complaint  
3 (“Complaint”) against Prime Converting Corporation, a California Corporation; and DOES 1 to  
4 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

### 5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this  
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions  
8 Code § 17200 *et. seq.*, Labor Code §§ 201-204, 221-223, 226, 226.7, 510, 512, 516, 558, 1182.12,  
9 1194, 1194.2, 1197, 1198, and 2698 *et seq.*, and Industrial Welfare Commission Wage Order 1  
10 (“Wage Order 1”), in addition to seeking declaratory relief and restitution. This Complaint is  
11 brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over  
12 Defendants’ violations of the California Labor Code because the amount in controversy exceeds  
13 this Court's jurisdictional minimum.

### 14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil  
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein  
17 occurred in the County of San Bernardino. Defendants own, maintain offices, transact business,  
18 have an agent or agents within the County of San Bernardino, and/or otherwise are found within  
19 the County of San Bernardino, and Defendants are within the jurisdiction of this Court for  
20 purposes of service of process.

### 21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,  
23 Plaintiff was and currently is, a California resident. During the four years and 178 days  
24 immediately preceding the filing of the Complaint in this action and within the statute of  
25 limitations periods applicable to each cause of action pled herein, Plaintiff was employed by  
26 Defendants as a non-exempt employee. Plaintiff was, and is, a victim of Defendants’ policies  
27 and/or practices complained of herein, lost money and/or property, and has been deprived of the  
28 rights guaranteed by Labor Code §§ 201-204, 221-223, 226, 226.7, 510, 512, 516, 558, 1182.12,

1 1194, 1194.2, 1197, 1198, and 2698 *et seq.*; California Business and Professions Code § 17200  
2 *et seq.* (“Unfair Competition Law”), and Wage Order 1, which sets employment standards for  
3 manufacturing industry.

4 4. Plaintiff is informed and believes, and based thereon alleges, that during the four  
5 years preceding the filing of the Complaint and continuing to the present, Defendants did (and  
6 continue to do) business by manufacturing paper and paperboard products. Defendants employed  
7 Plaintiff and other, similarly-situated non-exempt employees within San Bernardino County and  
8 the state of California and, therefore, were (and are) doing business in San Bernardino County  
9 and the State of California.

10 5. Plaintiff does not know the true names or capacities, whether individual, partner,  
11 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said  
12 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to  
13 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,  
14 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,  
15 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,  
16 and proximately caused Plaintiff and the Classes (as defined in Paragraph 15) to be subject to the  
17 unlawful employment practices, wrongs, injuries and damages complained of herein.

18 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned  
19 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

20 7. At all times herein mentioned, each of said Defendants participated in the doing  
21 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the  
22 Defendants, and each of them, were the agents, servants, and employees of each and every one of  
23 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned  
24 were acting within the course and scope of said agency and employment. Defendants, and each  
25 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or  
26 omissions complained of herein.

27 8. At all times mentioned herein, Defendants, and each of them, were members of  
28 and engaged in a joint venture, partnership, and common enterprise, and acting within the course

1 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,  
2 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all  
3 members of the Classes.

#### 4 **GENERAL FACTUAL ALLEGATIONS**

5 9. Plaintiff was employed by Defendants as a non-exempt employee in the position  
6 of machine operator from approximately 2019 until approximately August 2020, when his  
7 employment was terminated.

8 10. During Plaintiff's employment with Defendants, Defendants utilized a  
9 timekeeping system which failed to compensate Plaintiff and other non-exempt employees for all  
10 hours actually worked, whether by rounding, time-shaving, or otherwise. Although Defendants  
11 recorded Plaintiff's and other non-exempt employees' hours worked to the minute, Defendants  
12 only paid Plaintiff and other non-exempt employees in quarter-hour increments. Additionally,  
13 upon information and belief, in the event Plaintiff and other non-exempt employees clocked in  
14 one minute after their scheduled start of shift, Defendants unlawfully deducted up to 15-minutes  
15 from Plaintiff's and other non-exempt employees' hours worked. Defendants' one-way  
16 timekeeping policies/practices are not even handed and have resulted in Plaintiff and other non-  
17 exempt employees not being compensated for all hours worked. Further, on occasions when  
18 Plaintiff worked over eight hours in a workday and/or forty hours in a workweek, Defendants'  
19 timekeeping policies/practices deprived him of additional overtime wages earned. Due to  
20 Defendants' timekeeping policies/practices that fail to compensate for all hours worked, Plaintiff  
21 and other non-exempt employees were not compensated for all required minimum and overtime  
22 wages.

23 11. Plaintiff worked shifts in excess of 10.0 hours but was not provided a second meal  
24 period due to Defendants' meal period policies/practices which do not provide a second meal  
25 period for shifts in excess of 10.0 hours. In the event that a required meal period was not provided,  
26 Defendants did not pay Plaintiff the meal period premium wages required by Labor Code § 226.7.  
27 Upon information and belief, during at least a portion of the putative class period, Defendants did  
28 not maintain a payroll code or other mechanism for the payment of meal period premiums under

1 Labor Code § 226.7 in the event they failed to provide a legally compliant meal period to their  
2 non-exempt employees. Additionally, Defendants did not require its non-exempt employees to  
3 clock out and in for meal periods and thus failed to keep records of the beginning and ending  
4 times of all meal periods in violation of Wage Order 1, § 7(A)(3). Rather, Defendants simply  
5 deducted 30 minutes from non-exempt employees' recorded hours on the assumption that a valid  
6 30-minute meal period was taken, regardless of whether one was actually taken.

7 12. Plaintiff was not authorized and permitted to take a rest period for every 4 hours  
8 worked (or major fraction thereof) due to Defendants' rest period policies/practices. Specifically,  
9 Plaintiff was not authorized and permitted to take separate rest periods throughout the workday  
10 and was only authorized and permitted a single 10-minute rest period as well as a combined 40-  
11 minute meal and rest period during his 8-hour shift, in violation of California law. *See Rodriguez*  
12 *v. E.M.E., Inc.* (2016) 246 Cal.App.4th 1027 (holding that in the context of an 8-hour shift with  
13 a single meal period, the preferred schedule requires the provision of a rest period in the middle  
14 of each "work period" before and after the meal break, and that "a departure from the preferred  
15 schedule is permissible only when the departure (1) will not unduly affect employee welfare and  
16 (2) is tailored to alleviate a material burden that would be imposed on the employer by  
17 implementing the preferred schedule."). Additionally, when Plaintiff worked shifts in excess of  
18 10.0 hours, Plaintiff was not authorized and permitted to take a third rest period. In the event that  
19 a required rest period was not authorized and permitted, Defendants did not pay Plaintiff the rest  
20 period premium wages required by Labor Code § 226.7. Upon information and belief, during at  
21 least a portion of the putative class period, Defendants did not maintain a payroll code or other  
22 mechanism for the payment of rest period premiums under Labor Code § 226.7 in the event they  
23 failed to provide a legally compliant rest period to their non-exempt employees.

24 13. As a result of Defendants' failure to pay all minimum and overtime wages as well  
25 as all meal and rest period premium wages, Defendants maintained inaccurate payroll records,  
26 issued inaccurate wage statements to Plaintiff, and failed to pay Plaintiff all wages due at his  
27 separation of employment.

28 14. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations

of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for each cause of action pled herein has been calculated to include 178 days preceding the filing of this Complaint.

### **CLASS ACTION ALLEGATIONS**

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

- a. The Minimum Wage Class consists of all Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies/practices, during the four years and 178 days immediately preceding the filing of the Complaint through the present.
- b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than 8.0 hours per day and/or 40.0 hours per week and who were subject to Defendants' timekeeping policies/practices, during the four years and 178 days immediately preceding the filing of the Complaint through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who: (i) worked at least one shift in excess of 5.0 hours and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years plus 178 days immediately preceding the filing of the Complaint through the present.
- d. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 3.5 hours, during the four years plus 178 days immediately preceding the filing of the Complaint through the present.
- e. The Unlawful Deduction Class consists of all Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies/practices, during the four years plus 178 days immediately preceding the filing of the Complaint through the present.

1 f. The Wage Statement Class consists of all members of the Minimum Wage Class,  
2 Overtime Class, Meal Period Class, Rest Period Class, and/or Unlawful Deduction  
3 Class who have received a wage statement from Defendants, during the one year  
4 plus 178 days immediately preceding the filing of the Complaint through the  
5 present.

6 g. The Waiting Time Penalty Class consists of the members of the Minimum Wage  
7 Class, Overtime Class, Meal Period Class, Rest Period Class, and/or Unlawful  
8 Deduction Class who separated their employment with Defendants, during the  
9 three years and 178 days immediately preceding the filing of the Complaint  
10 through the present.

11 16. **Numerosity/Ascertainability:** The members of the Classes are so numerous that  
12 joinder of all members would be unfeasible and not practicable. The membership of the Classes  
13 and Subclasses are unknown to Plaintiff at this time; however, it is estimated that the members of  
14 the Classes number greater than fifty (50) individuals. The identity of such membership is readily  
15 ascertainable via inspection of Defendants' employment records.

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

20 i. Whether Defendants paid all minimum wages owed for all hours worked to  
21 members of the Minimum Wage Class pursuant to Labor Code sections 1182.12,  
22 1194, 1194.2, 1197, and 1198;

23 ii. Whether Defendants violated the applicable Labor Code provisions, including, but  
24 not limited to, sections 510 and 1194 by requiring members of the Overtime Class  
25 to perform overtime work and not paying for said work in accordance with the  
26 overtime laws of the State of California;

27 iii. Whether Defendants provided legally compliant meal periods to members of the  
28 Meal Period Class pursuant to Labor Code sections 226.7 and 512;

- iv. Whether Defendants correctly paid meal period premium payments at the regular rate for non-compliant meal periods pursuant to Labor Code section 226.7;
- v. Whether Defendants provided legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code sections 226.7 and 516;
- vi. Whether Defendants correctly paid rest period premium payments at the regular rate for non-compliant rest periods pursuant to Labor Code section 226.7;
- vii. Whether Defendants unlawfully deducted earned wages in violation of Labor Code sections 221-223;
- viii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code section 226; and
- ix. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were unlawful.

18. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform timekeeping policies/practices, meal and rest period policies, and policies/practices related to the payment of wages. As such, the common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

19. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned minimum and overtime wages, was not provided all required meal periods, was not authorized and permitted to take all required rest periods, did not receive meal and rest period premium wages for missed and/or non-compliant meal and rest periods, was not issued accurate itemized wage statements,

and/or was not paid all final wages at the time of termination.

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

21. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further,

1 the claims of the individual members of the Class are not sufficiently large to warrant vigorous  
2 individual prosecution considering all of the concomitant costs and expenses attending thereto.  
3 As such, the Classes identified in Paragraph 15 are maintainable as a Class under § 382 of the  
4 Code of Civil Procedure.

5 **FIRST CAUSE OF ACTION**  
6 **MINIMUM WAGE VIOLATIONS**  
7 **(AGAINST ALL DEFENDANTS)**

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

9 23. Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the  
10 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.  
11 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal  
12 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with  
13 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid  
14 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its  
15 pay practices to the requirements of the law by failing to pay Plaintiff and members of the  
16 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were  
17 subject to the control of Defendants and/or suffered or permitted to work under the California  
18 Labor Code and Wage Order 1.

19 24. California Labor Code § 1198 makes unlawful the employment of an employee  
20 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide  
21 that an employer who has failed to pay its employees the legal minimum wage is liable to pay  
22 those employees the unpaid balance of the unpaid wages as well as liquidated damages in an  
23 amount equal to the wages due and interest thereon.

24 25. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and  
25 members of the Minimum Wage Class seek penalties pursuant to Wage Order 1 § 20(A) and  
26 California Labor Code § 1199; interest pursuant to California Labor Code §§ 218.6 and 1194 and  
27 Civil Code §§ 3287 and 3289; liquidated damages pursuant to California Labor Code § 1194.2;  
28 attorneys' fees and costs of suit pursuant to California Labor Code § 1194 *et seq.*; and damages

and/or penalties pursuant to California Labor Code § 558(a).

**SECOND CAUSE OF ACTION**

**FAILURE TO PAY ALL OVERTIME WAGES**

**(AGAINST ALL DEFENDANTS)**

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

27. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to all overtime wages and compensation for hours worked, and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

28. At all times relevant herein, Defendants were required to properly compensate non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay” for work in excess of eight hours per workday and/or in excess of forty hours of work in the workweek. Wage Order 1, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of twelve hours each work day and/or for work in excess of eight hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff to work overtime hours, but did not compensate Plaintiff or members of the Overtime Pay Class at one and one half times their regular rate of pay for such hours.

29. Defendants’ policy/practice of requiring overtime work and not paying at the proper overtime rates for said work violates California Labor Code §§ 204, 210, 216, 510, 558, 1194, and 1198; and Wage Order 1.

30. The foregoing policies/practices alleged herein are unlawful and create entitlement to recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid amount of overtime wages, including interest thereon, statutory penalties, civil penalties, attorneys’ fees, and costs of suit according to California Labor Code §§ 204, 210, 216, 510, 558, 1194, and 1198; and Code of Civil Procedure § 1021.5.

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**THIRD CAUSE OF ACTION**  
**MEAL PERIOD VIOLATIONS**  
**(AGAINST ALL DEFENDANTS)**

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

32. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 1, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

33. As a result, Defendants are responsible for paying premium compensation for meal period violations pursuant to Labor Code §§ 226.7 and 512, and Wage Order 1, including interest thereon, statutory penalties, civil penalties, and costs of suit.

**FOURTH CAUSE OF ACTION**  
**REST PERIOD VIOLATIONS**  
**(AGAINST ALL DEFENDANTS)**

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

35. Wage Order 1, § 12 and Labor Code §§ 226.7 and 516 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof.

36. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all required rest periods.

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

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1 **FIFTH CAUSE OF ACTION**

2 **UNLAWFUL DEDUCTIONS FROM EARNED WAGES**

3 **(AGAINST ALL DEFENDANTS)**

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

5 39. As alleged above, Defendants made unlawful deductions from Plaintiff's earned  
6 wages. As a result, Defendants failed to pay all wages owed to Plaintiff and members of the  
7 Unlawful Deduction Class in violation of Labor Code §§ 221-223.

8 40. Defendants' failure to pay all earned wages is unlawful and creates an entitlement  
9 to recovery by Plaintiff and the members of the Unlawful Deduction Class for unpaid wages,  
10 interest on said wages, and attorneys' fees pursuant to Code of Civil Procedure § 1021.5.

11 **SIXTH CAUSE OF ACTION**

12 **WAGE STATEMENT VIOLATIONS**

13 **(AGAINST ALL DEFENDANTS)**

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

15 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
16 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff  
17 and members of the Wage Statement Class with complete and accurate wage statements with  
18 respect to total gross wages earned, all rates of pay, and total net wages earned, in violation of  
19 Labor Code § 226 *et seq.*

20 43. Defendants' failures in furnishing Plaintiff and members of the Wage Statement  
21 Class with complete and accurate itemized wage statements resulted in actual injury, as said  
22 failures led to, among other things, the non-payment of all minimum and overtime wages, as well  
23 as unpaid meal and rest period premium wages, and deprived them of the information necessary  
24 to identify the discrepancies in Defendants' reported data and whether they have been paid all  
25 wages earned.

26 44. Defendants' failures create an entitlement to recovery by Plaintiff and members of  
27 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor  
28 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and

costs of suit according to California Labor Code § 226 *et seq.*

**SEVENTH CAUSE OF ACTION**

**WAITING TIME PENALTIES**

**(AGAINST ALL DEFENDANTS)**

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

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

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

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

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

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

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1 **EIGHTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(AGAINST ALL DEFENDANTS)**

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

5 52. Defendants have engaged and continue to engage in unfair and/or unlawful  
6 business practices in California in violation of California Business and Professions Code § 17200  
7 *et seq.*, by failing to properly pay all minimum and overtime wages, failing to provide all required  
8 meal and rest periods or pay premium payments in lieu thereof, unlawfully deducting earned  
9 wages, failing to furnish accurate, compliant itemized wage statements, and failing to pay all  
10 wages upon separation of employment.

11 53. Defendants' utilization of these unfair and/or unlawful business practices deprived  
12 Plaintiff and continues to deprive members of the Classes of compensation to which they are  
13 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage  
14 over Defendants' competitors who have been and/or are currently employing workers and  
15 attempting to do so in honest compliance with applicable wage and hour laws.

16 54. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged  
17 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of  
18 monies, as necessary and according to proof, to restore any and all monies withheld, acquired  
19 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

20 55. The acts complained of herein occurred within the last four years and 178 days  
21 immediately preceding the filing of the Complaint in this action.

22 56. Plaintiff was compelled to retain the services of counsel to file this court action to  
23 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf  
24 of Defendants' current non-exempt employees, and to enforce important rights affecting the  
25 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,  
26 which he is entitled to recover under Code of Civil Procedure § 1021.5.

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**NINTH CAUSE OF ACTION**  
**PRIVATE ATTORNEYS GENERAL ACT**  
**(AGAINST ALL DEFENDANTS)**

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

58. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved

employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, and 558;

d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, and 558;

e. Unlawfully deducting earned wages from Plaintiff, the Wage Deduction Class, and other aggrieved employees in violation of Labor Code §§ 221, 222, and 223;

f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;

g. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;

h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and

i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174 and 1198.

59. On February 26, 2021, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 58 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

60. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved

1 Employees, as defined by Labor Code § 2699(c), which includes all current and former non-  
2 exempt employees who worked for Defendants in California between February 26, 2020, and the  
3 present.

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

8 **PRAYER**

9 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf  
10 this suit is brought against Defendants, as follows:

- 11 1. For an order certifying the proposed Classes;
- 12 2. For an order appointing Plaintiff as representative of the Classes;
- 13 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 14 4. Upon the First Cause of Action, for payment of minimum wages, liquidated  
15 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2,  
16 1197, and 1198;
- 17 5. Upon the Second Cause of Action, for compensatory, consequential, general and  
18 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 19 6. Upon the Third Cause of Action, for compensatory, consequential, general and  
20 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 21 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and  
22 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
- 23 8. Upon the Fifth Cause of Action, for recovery of unpaid wages pursuant to Labor  
24 Code §§ 221–223;
- 25 9. Upon the Sixth Cause of Action, for for statutory penalties pursuant to Labor Code  
26 § 226 *et. seq.*;
- 27 10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant  
28 to Labor Code §§ 201-203;

1           11.     Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the  
2 Class of all money and/or property unlawfully acquired by Defendants by means of any acts or  
3 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*  
4 *seq.*;

5           12.     Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other  
6 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§  
7 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for  
8 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional  
9 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the  
10 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent  
11 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial  
12 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per  
13 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent  
14 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for  
15 each initial violation and \$200 for each subsequent violation per employee per pay period for  
16 those violations of the Labor Code for which no civil penalty is specifically provided, based on  
17 the Labor Code violations identified in Paragraph 58 (a)-(i);

18           13.     Prejudgment interest on all due and unpaid wages pursuant to California Labor  
19 Code § 218.6 and Civil Code §§ 3287 and 3289;

20           14.     On all causes of action, for attorneys' fees and costs as provided by Labor Code  
21 §§ 226, 1194 *et seq.*, and 2699(g); and Code of Civil Procedure § 1021.5; and

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

23  
24 Dated: May 3, 2021

Respectfully submitted,  
HAINES LAW GROUP, APC

25  
26 By:



Paul K. Haines  
Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

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

Dated: May 3, 2021

Respectfully submitted,  
HAINES LAW GROUP, APC

By:

  
\_\_\_\_\_  
Paul K. Haines  
Attorneys for Plaintiff