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7 Attorneys for Plaintiff, ROBERTO RUIZ, on
behalf of himself and all others similarly situated
and aggrieved

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

10
11 ROBERTO RUIZ, on behalf of himself and all
others similarly situated,

12
13 Plaintiffs,

14 v.

15 T.J.S. ENTERPRISES, INC. d.b.a. WDC
KITCHEN & BATH and WAREHOUSE
16 DISCOUNT CENTER, a California
corporation; PROTECH DELIVERY &
17 INSTALLATION, a California corporation;
and DOES 1 through 100, inclusive,

18 Defendants.
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ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUL 07 2021

Sherri R. Carter, Executive Officer/Clerk of Court

By: Tanya Herrera, Deputy

CASE NO.: 21STCV07001

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

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO INDEMNIFY;
8. UNFAIR COMPETITION;
9. PENALTIES PER LABOR CODE § 210;
10. PENALTIES PER LABOR CODE § 226.3;
11. PENALTIES PER LABOR CODE § 558;
12. PENALTIES PER LABOR CODE § 1197.1; AND
13. PENALTIES PER LABOR CODE § 2699

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff ROBERTO RUIZ ("Plaintiff"), on behalf of Plaintiff and all others similarly situated and aggrieved, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against T.J.S. ENTERPRISES, INC. doing business as WDC Kitchen & Bath and Warehouse Discount Center, and any of its respective subsidiaries or affiliated companies within the State of California ("TJS ENTERPRISES"), PROTECH DELIVERY & INSTALLATION, and any of its respective subsidiaries or affiliated companies within the State of California ("PROTECH" and, together with TJS ENTERPRISES and DOES 1 through 100, as further defined below, "Defendants") on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants ("Class Members").

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against TJS ENTERPRISES and any of its respective subsidiaries or affiliated companies within the State of California and PROTECH and any of its respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 227.3, Labor Code section 246, *et seq.*, Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, "Aggrieved Employees").

PARTIES

A. Plaintiff

3. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, driving and delivering

1 packages, such as, without limitation, refrigerators, stoves, and washing machines. Plaintiff is
2 informed and believes that Plaintiff worked for Defendants from approximately May of 2003
3 through approximately May of 2020.

4 **B. Defendants**

5 4. Plaintiff is informed and believes and based thereon alleges that defendant TJS
6 ENTERPRISES is, and at all times relevant hereto was, a corporation organized and existing under
7 and by virtue of the laws of the State of California and doing business in the County of Los Angeles,
8 State of California.

9 5. Plaintiff is informed and believes and based thereon alleges that defendant
10 PROTECH is, and at all times relevant hereto was, a corporation organized and existing under and
11 by virtue of the laws of the State of California and doing business in the County of Los Angeles,
12 State of California.

13 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
14 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
15 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
16 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
17 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
18 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
19 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
20 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
21 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
22 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
23 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
24 include TJS ENTERPRISES, PROTECH, and any of their parent, subsidiary, or affiliated
25 companies within the State of California, as well as DOES 1 through 100 identified herein.

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1 Members in Los Angeles County.

2 12. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
3 Defendants during the applicable statutory period and suffered one or more of the Labor Code
4 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
5 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
6 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
7 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
8 employees of Defendants during the Civil Penalty Period.

9 13. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
10 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
11 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
12 PAGA allegations described herein is not required.

13 14. During the period beginning one (1) year preceding the provision of notice to the
14 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
15 Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7,
16 227.3, 246, *et seq.*, 432, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699,
17 2802, and 2810.5, among others.

18 15. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
19 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
20 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
21 specified in Labor Code section 2699.3.

22 16. On or around February 19, 2021, Plaintiff provided written notice pursuant to Labor
23 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
24 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
25 as well as by certified mail, with return receipt requested to Defendants, and each of them.

26 17. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
27 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
28 calendar days of the February 19, 2021 postmarked date of the herein-described notice sent by

1 Plaintiff to the LWDA and Defendants.

2 18. On April 6, 2020, the Judicial Council of California approved Appendix I –
3 Emergency Rules Related to COVID-19. Pursuant to the Amended Emergency Rule 9 of the
4 California Rules of Court, subdivision (a), the statutes of limitations and repose for civil causes of
5 action were tolled from April 6, 2020 until October 1, 2020.

6 **FACTUAL BACKGROUND**

7 19. For at least four (4) years prior to the filing of this action and continuing to the
8 present, Defendants have failed to pay overtime wages to Plaintiff and Class Members, or some of
9 them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff
10 and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven
11 consecutive work days in a work week without being properly compensated for hours worked in
12 excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
13 worked on the seventh consecutive work day in a work week by, among other things, failing to
14 accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting
15 employees to work off the clock, including, without limitation, by requiring employees: to leave
16 work late without being able to clock in for all that time, to suffer under Defendants' control due to
17 lines for clocking in, to complete post-shift tasks after clocking out, to clock out for meal periods
18 and continue working and/or auto-deduction of meal periods not taken, and to make phone calls or
19 drive off the clock; editing and/or manipulation of time entries to show less hours than actually
20 worked, and for paying straight pay instead of overtime pay to the detriment of Plaintiff and Class
21 Members.

22 20. For at least four (4) years prior to the filing of this Action and continuing to the
23 present, Defendants have failed to pay minimum wages to Plaintiff and Class Members, or some of
24 them, in violation of California state wage and hour laws as a result of, among other things, failing
25 to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above
26 the minimum wage; engaging, suffering, or permitting employees to work off the clock, including,
27 without limitation, by failing to accurately track and/or pay for all minutes actually worked;
28 engaging, suffering, or permitting employees to work off the clock, including, without limitation,

1 by requiring employees: to leave work late without being able to clock in for all that time, to suffer
2 under Defendants' control due to lines for clocking in, to complete post-shift tasks after clocking
3 out, to clock out for meal periods and continue working and/or auto-deduction of meal periods not
4 taken, and to make phone calls or drive off the clock; editing and/or manipulation of time entries to
5 show less hours than actually worked; and failing to pay reporting time pay to the detriment of
6 Plaintiff and Class Members.

7 21. For at least four (4) years prior to the filing of this Action and continuing to the
8 present, Defendants have failed to provide Plaintiff and Class Members, or some of them, full,
9 timely thirty (30) minute uninterrupted meal period for days on which they worked more than five
10 (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on which
11 they worked in excess of ten (10) hours in a work day or auto-deducted meal periods that could not
12 be auto-deducted by law, and failing to provide compensation for such unprovided meal periods as
13 required by California wage and hour laws.

14 22. For at least four (4) years prior to the filing of this action and continuing to the
15 present, Defendants have failed to authorize and permit Plaintiff and Class Members, or some of
16 them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major fraction
17 thereof and failed to provide compensation for such unprovided rest periods as required by
18 California wage and hour laws.

19 23. For at least three (3) years prior to the filing of this action and continuing to the
20 present, Defendants have failed to pay Plaintiff and Class Members, or some of them, the full
21 amount of their wages owed to them upon termination and/or resignation as required by Labor Code
22 sections 201 and 202.

23 24. For at least one (1) year prior to the filing of this Action and continuing to the present,
24 Defendants have failed to furnish Plaintiff and Class Members, or some of them, with itemized wage
25 statements that accurately reflect gross wages earned; total hours worked; net wages earned; all
26 applicable hourly rates in effect during the pay period and the corresponding number of hours
27 worked at each hourly rate; the name and address of the legal entity that is the employer; and other
28 such information as required by Labor Code section 226, subdivision (a). As a result thereof,

1 Defendants have further failed to furnish employees with an accurate calculation of gross and gross
2 wages earned, as well as gross and net wages paid.

3 25. For at least three (3) years prior to the filing of this action and continuing to the
4 present, Defendants have failed to indemnify Class Members, or some of them, for the costs incurred
5 in laundering mandatory work uniforms; using cellular phones for work-related purposes; and
6 purchasing tools necessary to perform work duties, including without limitation, drills, plyers,
7 screwdrivers, pipe cutters, and safety gloves.

8 26. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this action
9 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7, 510,
10 512, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section 11010, seeking
11 overtime wages, minimum wages, payment of premium wages for missed meal and rest periods,
12 waiting time penalties, wage statement penalties, failure to indemnify work-related expenses, other
13 such provisions of California law, and reasonable attorneys' fees and costs.

14 27. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
15 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
16 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
17 appropriate and effective means to prevent further violations, as well as all monies owed but
18 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
19 restitution of amounts owed.

20 28. At all relevant times mentioned herein, Defendants have had a policy or practice of
21 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
22 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
23 Employees with the rates of pay and overtime rates of pay applicable to their employment;
24 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
25 name, address, and telephone number of the workers' compensation insurance carrier; information
26 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
27 under Labor Code section 2810.5.

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1 29. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
2 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
3 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
4 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
5 all other Aggrieved Employees.

6 30. At all relevant times mentioned herein, Defendants had and have a policy or practice
7 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
8 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
9 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
10 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
11 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiffs and other
12 Aggrieved Employees.

13 31. At all relevant times herein, Defendants had and have a policy or practice of failing
14 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
15 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
16 and applicable Wage Orders.

17 32. At all relevant times mentioned herein, Defendants have had a policy or practice of
18 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
19 Section 204, which requires that: “[I]abor performed between the 1st and 15th days, inclusive, of
20 any calendar month shall be paid for between the 16th and 26th day of the month during which the
21 labor was performed, and labor performed between the 16th and the last day, inclusive of any
22 calendar month, shall be paid for between the 1st and 10th day of the following month.”

23 33. Plaintiff, in Plaintiff’s representative capacity, seeks civil penalties under Labor
24 Code sections 210, 226.3, 558, 1197.1, and 2699 for the herein-described acts, which violate the
25 California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
26 Employees pursuant to PAGA.

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CLASS ACTION ALLEGATIONS

34. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and former non-exempt employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class action is provided to the class (collectively referred to as "Class Members").

35. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b) to amend or modify the class description with greater specificity, further divide the defined class into subclasses, and to further specify or limit the issues for which certification is sought.

36. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure section 382 because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity

37. The potential Class Members as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members employed by Defendants within the State of California.

38. Accounting for employee turnover during the relevant periods necessarily increases this number. Plaintiff alleges Defendants' employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

B. Commonality

39. There are questions of law and fact common to Class Members. These common questions include, but are not limited to:

- (1) Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours worked at a proper overtime rate of pay?
- (2) Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for all other time worked at the employee's regular rate of pay and a rate of pay that

1 is greater than the applicable minimum wage?

2 (3) Did Defendants violate Labor Code section 512 by not authorizing or permitting
3 Class Members to take compliant meal periods?

4 (4) Did Defendants violate Labor Code section 226.7 by not providing Class Members
5 with additional wages for missed or interrupted meal periods?

6 (5) Did Defendants violate applicable Wage Orders by not authorizing or permitting
7 Class Members to take compliant rest periods?

8 (6) Did Defendants violate Labor Code section 226.7 by not providing Class Members
9 with additional wages for missed rest periods?

10 (7) Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
11 Members upon termination or resignation all wages earned?

12 (8) Are Defendants liable to Class Members for waiting time penalties under Labor Code
13 section 203?

14 (9) Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
15 Class Members with accurate wage statements?

16 (10) Did Defendants fail to indemnify Class Members for all necessary expenditures or
17 losses incurred in direct consequence of the discharge of their duties or by obedience
18 to the directions of Defendants as required under Labor Code section 2802?

19 (11) Did Defendants violate the Unfair Competition Law, Business and Professions Code
20 section 17200, *et seq.*, by their unlawful practices as alleged herein?

21 (12) Are Class Members entitled to restitution of wages under Business and Professions
22 Code section 17203?

23 (13) Are Class Members entitled to costs and attorneys' fees?

24 (14) Are Class Members entitled to interest?

25 **C. Typicality**

26 40. The claims of Plaintiff herein alleged are typical of those claims which could be
27 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
28 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and

1 damages arising out of and caused by Defendants' common course of conduct in violation of laws
2 and regulations that have the force and effect of law and statutes as alleged herein.

3 **D. Adequacy of Representation**

4 41. Plaintiff will fairly and adequately represent and protect the interest of Class
5 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
6 hour class actions.

7 **E. Superiority of Class Action**

8 42. A class action is superior to other available means for the fair and efficient
9 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
10 questions of law and fact common to Class Members predominate over any questions affecting only
11 individual Class Members. Class Members, as further described therein, have been damaged and
12 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
13 violation of the Labor Code at times, as set out herein.

14 43. Class action treatment will allow Class Members to litigate their claims in a manner
15 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
16 any difficulties that are likely to be encountered in the management of this action that would
17 preclude its maintenance as a class action.

18 **FIRST CAUSE OF ACTION**

19 **(Failure to Pay Overtime Wages – Against All Defendants)**

20 44. Plaintiff realleges and incorporates by reference all of the allegations contained in
21 the preceding paragraphs as though fully set forth hereat.

22 45. At all relevant times, Plaintiff and Class Members were employees or former
23 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
24 Wage Orders.

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

1 47. At all times relevant to this Complaint, Labor Code section 510 further provided that
2 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
3 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
4 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
5 pay.”

6 48. Four (4) years prior to the filing of the Complaint in this Action through the present,
7 Plaintiff and Class Members worked for Defendants during shifts that consisted of more than eight
8 (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7) consecutive
9 workdays in a workweek, without being paid overtime wages for all hours worked as a result of,
10 including but not limited to, Defendants failing to accurately track and/or pay for all minutes actually
11 worked; engaging, suffering, or permitting employees to work off the clock, including, without
12 limitation, by requiring employees: to leave work late without being able to clock in for all that time,
13 to suffer under Defendants’ control due to lines for clocking in, to complete post-shift tasks after
14 clocking out, to clock out for meal periods and continue working and/or auto-deduction of meal
15 periods not taken, and to make phone calls or drive off the clock; editing and/or manipulation of
16 time entries to show less hours than actually worked, and for paying straight pay instead of overtime
17 pay to the detriment of Plaintiff and Class Members.

18 49. Accordingly, by requiring Plaintiff and Class Members to work greater than eight (8)
19 hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays without
20 properly compensating overtime wages at the proper overtime rate of pay, Defendants willfully
21 violated the provisions of the Labor Code, among others, sections 510, 1194, and applicable IWC
22 Wage Orders, and California law.

23 50. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
24 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
25 plus interest and penalties thereon, attorneys’ fees and costs, pursuant to Labor Code section 1194
26 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

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SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

51. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

52. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

53. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class Members were entitled to receive minimum wages for all hours worked or otherwise under Defendants' control.

54. For four (4) years prior to the filing of the Complaint in this Action through the present, Defendants failed to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the minimum wage; engaging, suffering, or permitting employees to work off the clock, including, without limitation, engaging, suffering, or permitting employees to work off the clock, including, without limitation, by failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to leave work late without being able to clock in for all that time, to suffer under Defendants' control due to lines for clocking in, to complete post-shift tasks after clocking out, to clock out for meal periods and continue working, and to make phone calls or drive off the clock; editing and/or manipulation of time entries to show less hours than actually worked; and failing to pay reporting time pay to the detriment of Plaintiff and Class Members.

55. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked or otherwise due.

56. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

1 **THIRD CAUSE OF ACTION**

2 **(Failure to Provide Meal Periods – Against All Defendants)**

3 57. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 58. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

7 59. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
8 employ an employee for a work period of more than five (5) hours without a timely meal break of
9 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
10 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
11 per day without providing the employee with a second timely meal period of not less than thirty (30)
12 minutes in which the employee is relieved of all of his or her duties.

13 60. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
14 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
15 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
16 of compensation for each workday that the meal period is not provided.

17 61. For four (4) years prior to the filing of the Complaint in this Action through the
18 present, Plaintiff and Class Members were not provided complete, timely 30-minute, duty-free
19 uninterrupted meal periods every five hours of work without waiving the right to take them, as
20 permitted, or auto-deducted meal periods that could not be auto-deducted by law. Moreover,
21 Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of
22 compensation on the occasions that Class Members were not provided compliant meal periods.

23 62. By their failure to provide Plaintiff and Class Members compliant meal periods as
24 contemplated by Labor Code section 512, among other California authorities, and failing to provide
25 compensation for such unprovided meal periods, as alleged above, Defendants willfully violated the
26 provisions of Labor Code section 512 and applicable Wage Orders.

27 63. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
28 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay

owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

64. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

65. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

66. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

67. California law and applicable Wage Orders require that employers "authorize and permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest period, and employees who work shifts of more than ten (10) hours must be provided thirty (30) minutes of paid rest period.

68. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

69. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, not authorized or permitted to take complete, timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not authorized or permitted to take compliant rest periods.

70. By their failure to authorize and permit Plaintiff and Class Members to take rest periods contemplated by California law, and one (1) additional hour of pay at the employee's regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

71. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for rest periods that they were not authorized or permitted to take.

72. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FIFTH CAUSE OF ACTION

(Failure to Pay All Wages Due Upon Termination – Against All Defendants)

73. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

74. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable Wage Orders.

75. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Class Members who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation.

76. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years before the filing of the Complaint in this Action through the present, Defendants, due to the failure, to provide overtime wages mentioned above, failed to pay Plaintiff and Class Members all

1 wages earned prior to resignation or termination in accordance with Labor Code sections 201 or
2 202.

3 77. Plaintiff is informed and believes Defendants' failure to pay Plaintiff and Class
4 Members all wages earned prior to termination or resignation in accordance with Labor Code
5 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
6 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
7 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
8 sections 201 and 202 resulting in the failure to pay all wages earned prior to termination or
9 resignation.

10 78. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
11 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
12 resignation, until paid, up to a maximum of thirty (30) days.

13 79. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
14 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
15 prior to termination or resignation.

16 80. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
17 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
18 waiting time penalties, interest, and their costs of suit, as well.

19 **SIXTH CAUSE OF ACTION**

20 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

21 81. Plaintiff realleges and incorporates by reference all of the allegations contained in
22 the preceding paragraphs as though fully set forth hereat.

23 82. At all relevant times, Plaintiff and Class Members were employees or former
24 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

25 83. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
26 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
27 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
28 wages earned; all applicable hourly rates in effect during the pay period and the corresponding

1 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
2 employer, among other things.

3 84. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
4 before the filing of the Complaint in this Action through the present, Defendants failed to comply
5 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
6 failure, to furnish Plaintiff and Class Members with accurate itemized statements that accurately
7 reflect, among other things, gross wages earned; total hours worked; net wages earned; all applicable
8 hourly rates in effect during the pay period and the corresponding number of hours worked at each
9 hourly rate; and the name and address of the legal entity that is the employer, among other things.

10 85. Defendants' failure to provide Plaintiff and Class Members with accurate wage
11 statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff
12 and the other Class Members with accurate wage statements, but, willfully provided wage
13 statements that Defendants knew were not accurate.

14 86. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
15 suffered injury. The absence of accurate information on Class Members' wage statements at times
16 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
17 mathematical computations to determine the amount of wages owed; causes difficulty and expense
18 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
19 about wages and amounts deducted from wages to state and federal governmental agencies, among
20 other things.

21 87. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
22 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
23 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
24 pay period, not to exceed an aggregate \$4,000.00 per employee.

25 88. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
26 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
27 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
28 attorneys' fees, and costs of suit.

1 **SEVENTH CAUSE OF ACTION**

2 **(Violation of Labor Code § 2802 – Against All Defendants)**

3 89. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 90. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

7 91. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
8 his or her employee for all necessary expenditures or losses incurred by the employee in direct
9 consequence of the discharge of his or her duties . . .”

10 92. For three (3) years prior to the filing of the Complaint in this Action through the
11 present, Defendants required Plaintiff and Class Members, or some of them, to incur, necessary
12 expenditures or losses in direct consequence of the discharge of their duties or at the obedience to
13 the directions of Defendants that included, without limitation: laundering mandatory work uniforms;
14 using personal cellular phones for work-related purposes; and purchasing tools necessary to perform
15 work duties, including without limitation, drills, plyers, screwdrivers, pipe cutters, and safety
16 gloves.

17 93. During that time period, Plaintiff is informed and believes, and based thereon alleges
18 that Defendants failed and refused, and still fail and refuse to reimburse Plaintiff and Class Members
19 for those losses and/or expenditures.

20 94. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
21 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
22 herein-described losses and/or expenditures.

23 95. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
24 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
25 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys’ fees and
26 costs of suit.

27 / / /

28 / / /

1 **EIGHTH CAUSE OF ACTION**

2 **(Unfair Competition – Against All Defendants)**

3 96. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 97. Plaintiff is informed and believes, and based thereon alleges that the unlawful
6 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
7 and Professions Code section 17200. Due to their unlawful business practices in violation of the
8 Labor Code, Defendants have gained a competitive advantage over other comparable companies
9 doing business in the State of California that comply with their obligations to compensate employees
10 in accordance with the Labor Code.

11 98. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
12 Members have suffered injury in fact and lost money or property.

13 99. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
14 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
15 Code and requiring the establishment of appropriate and effective means to prevent further
16 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
17 including interest thereon, in which they had a property interest and which Defendants nevertheless
18 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
19 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
20 by their failure to comply with the Labor Code.

21 100. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
22 Procedure section 1032 and interest under Civil Code section 3287.

23 **NINTH CAUSE OF ACTION**

24 **(Civil Penalties Under Labor Code § 210 – Against All Defendants)**

25 101. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
26 and incorporates each by reference as though fully set forth hereat.

27 102. At all relevant times herein, Labor Code section 204, requires and required that:
28 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for

1 between the 16th and 26th day of the month during which the labor was performed, and labor
2 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
3 between the 1st and 10th day of the following month.”

4 103. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
5 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
6 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
7 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
8 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
9 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
10 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

11 104. At all relevant times herein, Defendants have had a consistent policy or practice of
12 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
13 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
14 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
15 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
16 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
17 for each subsequent violation in connection with each payment that was made in violation of Labor
18 Code section 204.

19 **TENTH CAUSE OF ACTION**

20 **(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)**

21 105. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
22 and incorporates each by reference as though fully set forth hereat.

23 106. Defendants had and have a policy or practice of failing to comply with Labor Code
24 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
25 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
26 wages earned; the name and address of each employer with whom they have been placed to work;
27 all applicable hourly rates in effect during the pay period and the corresponding number of hours
28 worked at each hourly rate; the legal name of the employer; and other such information as required

1 by Labor Code section 226, subdivision (a).

2 107. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
3 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
4 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
5 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
6 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

7 108. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
8 this section are in addition to any other penalty provided by law.”

9 109. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
10 and have a policy or practice of failing to furnish non-exempt employees, including, without
11 limitation, Plaintiff, with itemized wage statements that accurately reflect gross wages earned; total
12 hours worked; net wages earned; all deductions; all applicable hourly rates in effect and the
13 corresponding number of hours worked at each hourly rate in effect during the pay period; the legal
14 name of the employer and/or the name and address of the legal entity securing the employer’s services
15 if the employer is a farm labor contractor; and other such information as required by Labor Code
16 section 226, subdivision (a).

17 110. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
18 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
19 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
20 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
21 period for each subsequent violation.

22 **ELEVENTH CAUSE OF ACTION**

23 **(Violation of Labor Code § 558 – Against All Defendants)**

24 111. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
25 and incorporates each by reference as though fully set forth hereat.

26 112. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
27 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
28 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil

1 penalty as follows:

- 2 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
3 pay period for which the employee was underpaid in addition to an amount sufficient
4 to recover underpaid wages;
- 5 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
6 employee for each pay period for which the employee was underpaid in addition to
7 an amount sufficient to recover underpaid wages;
- 8 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

9 113. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
10 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
11 causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages and minimum
12 wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during
13 their employment and after their employment separation; receive accurate, itemized wage
14 statements; be provided with the opportunity to inspect employment records; be provided with
15 notice as required under Labor Code section 2810.5; be provided with the proper accrual and use of
16 paid sick leave; and/or be paid out all paid time off and/or vacation wages owed at the proper rate
17 of pay.

18 114. As a direct and proximate result of the herein-described Labor Code violations,
19 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
20 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
21 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
22 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

23 **THIRTEENTH CAUSE OF ACTION**

24 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

25 115. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
26 and incorporates each by reference as though fully set forth hereat.

27 116. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
28 person acting either individually or as an officer, agent, or employee of another person, who pays

1 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
2 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
3 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
4 Section 203 as follows:

5 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
6 for each underpaid employee for each pay period for which the employee is
7 underpaid. This amount shall be in addition to an amount sufficient to recover
8 underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable
9 penalties imposed pursuant to Section 203.

10 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
11 (\$250) for each underpaid employee for each pay period for which the employee is
12 underpaid regardless of whether the initial violation is intentionally committed. This
13 amount shall be in addition to an amount sufficient to recover underpaid wages,
14 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
15 pursuant to Section 203.

16 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
17 Section 203, recovered pursuant to this section shall be paid to the affected
18 employee.”

19 117. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
20 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
21 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ wages for all hours
22 worked or otherwise under Defendants’ control due to, without limitation, routinely failing to
23 accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of
24 time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at
25 the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock.

26 118. As a direct and proximate result of the herein-described Labor Code violations,
27 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
28 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one

1 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
2 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
3 subsequent violation.

4 **THIRTEENTH CAUSE OF ACTION**

5 **(Civil Penalties Under Labor Code § 2699 – Against All Defendants)**

6 119. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
7 and incorporates each by reference as though fully set forth hereat.

8 120. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
9 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
10 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
11 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
12 action brought by an aggrieved employee on behalf of himself or herself and other current or former
13 employees pursuant to the procedures specified in Labor Code section 2699.3.

14 121. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
15 Code except those for which a civil penalty is specifically provided, the established civil penalty for
16 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
17 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
18 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
19 employee per pay period for each subsequent violation.

20 122. Plaintiff is informed and believes and based thereon alleges that Defendants, and
21 each of them, violated the Labor Code sections described herein, including, without limitation, for
22 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
23 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
24 employment and after employment separation; provide employees the opportunity to inspect
25 employment records; reimburse Aggrieved Employees for costs incurred in furtherance of their
26 work duties; provide notice as required under Labor Code section 2810.5; provide the proper accrual
27 and use of paid sick leave; paying employees all owed paid time off and vacation time owed by
28 separation at the proper rate of pay; entitling Plaintiff and other Aggrieved Employees to civil

1 penalties for each of these Labor Code violations in the amounts set forth in Labor Code section
2 2699, subdivision (f).

3 123. Moreover, Plaintiff and other Aggrieved Employees within the State of California
4 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
5 connection with their herein-described claims for civil penalties.

6 **DEMAND FOR JURY TRIAL**

7 124. Plaintiff demands a trial by jury on all causes of action contained herein.

8 **PRAYER**

9 WHEREFORE, on behalf of Plaintiff, Class Members and Aggrieved Employees, Plaintiff
10 prays for judgment against Defendants as follows:

- 11 A. An order certifying this case as a Class Action;
- 12 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
13 counsel as class counsel;
- 14 C. Damages for all wages earned and owed, including minimum and overtime wages
15 under Labor Code sections 510, 1194, 1197 and 1199;
- 16 D. Liquidated damages pursuant to Labor Code section 1194.2;
- 17 E. Damages for unpaid premium wages from missed meal and rest periods under,
18 among other Labor Code sections, 512 and 226.7;
- 19 F. Penalties for inaccurate wage statements under Labor Code section 226,
20 subdivision (e);
- 21 G. Waiting time penalties under Labor Code section 203;
- 22 H. Damages under Labor Code sections 2802;
- 23 I. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
24 1197.1, and 2699;
- 25 J. Preliminary and permanent injunctions prohibiting Defendants from further
26 violating the California Labor Code and requiring the establishment of appropriate
27 and effective means to prevent future violations;

28 / / /

- 1 K. Restitution of wages and benefits due which were acquired by means of any unfair
2 business practice, according to proof;
3 L. Prejudgment and post-judgment interest at the maximum rate allowed by law;
4 M. For attorneys' fees in prosecuting this action;
5 N. For costs of suit incurred herein; and
6 O. For such other and further relief as the Court deems just and proper.
7

8 Dated: July 7, 2021

BIBIYAN LAW GROUP, P.C.

9
10 BY: 

11 DIEGO AVILES

12 Attorneys for Plaintiff ROBERTO RUIZ on behalf of
13 himself and all others similarly situated
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

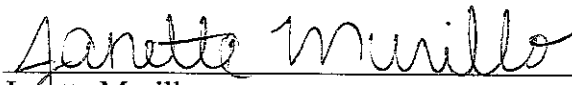
On July 7, 2021, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED CLASS ACTION AND REPRESENTATIVE COMPLAINT** to be served by electronic transmission to the below referenced electronic e-mail address as follows:

Robert S. Blumberg, Esq.
Kieran D. Hartley, Esq.
LITTLER MENDELSON
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Counsel for Defendants

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 7, 2021 at Beverly Hills, California.


Janette Murillo

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6 Attorneys for Plaintiff, ROBERTO RUIZ, on
7 behalf of himself and all others similarly situated
and aggrieved

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

10
11 ROBERTO RUIZ, on behalf of himself and all
12 others similarly situated,

13 Plaintiffs,

14 v.

15 T.J.S. ENTERPRISES, INC. d.b.a. WDC
16 KITCHEN & BATH and WAREHOUSE
DISCOUNT CENTER, a California
17 corporation; PROTECH DELIVERY &
INSTALLATION, a California corporation;
and DOES 1 through 100, inclusive,

18 Defendants.

UNFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUL 07 2021

Sherri R. Carter, Executive Officer/Clerk of Court

By: Tanya Herrera, Deputy

CASE NO.: 21STCV07001

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

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO INDEMNIFY;
8. UNFAIR COMPETITION;
9. PENALTIES PER LABOR CODE § 210;
10. PENALTIES PER LABOR CODE § 226.3;
11. PENALTIES PER LABOR CODE § 558;
12. PENALTIES PER LABOR CODE § 1197.1; AND
13. PENALTIES PER LABOR CODE § 2699

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff ROBERTO RUIZ ("Plaintiff"), on behalf of Plaintiff and all others similarly situated and aggrieved, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against T.J.S. ENTERPRISES, INC. doing business as WDC Kitchen & Bath and Warehouse Discount Center, and any of its respective subsidiaries or affiliated companies within the State of California ("TJS ENTERPRISES"), PROTECH DELIVERY & INSTALLATION, and any of its respective subsidiaries or affiliated companies within the State of California ("PROTECH" and, together with TJS ENTERPRISES and DOES 1 through 100, as further defined below, "Defendants") on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants ("Class Members").

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against TJS ENTERPRISES and any of its respective subsidiaries or affiliated companies within the State of California and PROTECH and any of its respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 227.3, Labor Code section 246, *et seq.*, Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, "Aggrieved Employees").

PARTIES

A. Plaintiff

3. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, driving and delivering

1 packages, such as, without limitation, refrigerators, stoves, and washing machines. Plaintiff is
2 informed and believes that Plaintiff worked for Defendants from approximately May of 2003
3 through approximately May of 2020.

4 **B. Defendants**

5 4. Plaintiff is informed and believes and based thereon alleges that defendant TJS
6 ENTERPRISES is, and at all times relevant hereto was, a corporation organized and existing under
7 and by virtue of the laws of the State of California and doing business in the County of Los Angeles,
8 State of California.

9 5. Plaintiff is informed and believes and based thereon alleges that defendant
10 PROTECH is, and at all times relevant hereto was, a corporation organized and existing under and
11 by virtue of the laws of the State of California and doing business in the County of Los Angeles,
12 State of California.

13 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
14 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
15 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
16 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
17 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
18 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
19 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
20 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
21 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
22 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
23 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
24 include TJS ENTERPRISES, PROTECH, and any of their parent, subsidiary, or affiliated
25 companies within the State of California, as well as DOES 1 through 100 identified herein.

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1 Members in Los Angeles County.

2 12. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
3 Defendants during the applicable statutory period and suffered one or more of the Labor Code
4 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
5 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
6 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
7 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
8 employees of Defendants during the Civil Penalty Period.

9 13. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
10 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
11 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
12 PAGA allegations described herein is not required.

13 14. During the period beginning one (1) year preceding the provision of notice to the
14 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
15 Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7,
16 227.3, 246, *et seq.*, 432, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699,
17 2802, and 2810.5, among others.

18 15. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
19 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
20 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
21 specified in Labor Code section 2699.3.

22 16. On or around February 19, 2021, Plaintiff provided written notice pursuant to Labor
23 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
24 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
25 as well as by certified mail, with return receipt requested to Defendants, and each of them.

26 17. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
27 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
28 calendar days of the February 19, 2021 postmarked date of the herein-described notice sent by

1 Plaintiff to the LWDA and Defendants.

2 18. On April 6, 2020, the Judicial Council of California approved Appendix I –
3 Emergency Rules Related to COVID-19. Pursuant to the Amended Emergency Rule 9 of the
4 California Rules of Court, subdivision (a), the statutes of limitations and repose for civil causes of
5 action were tolled from April 6, 2020 until October 1, 2020.

6 **FACTUAL BACKGROUND**

7 19. For at least four (4) years prior to the filing of this action and continuing to the
8 present, Defendants have failed to pay overtime wages to Plaintiff and Class Members, or some of
9 them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff
10 and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven
11 consecutive work days in a work week without being properly compensated for hours worked in
12 excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
13 worked on the seventh consecutive work day in a work week by, among other things, failing to
14 accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting
15 employees to work off the clock, including, without limitation, by requiring employees: to leave
16 work late without being able to clock in for all that time, to suffer under Defendants' control due to
17 lines for clocking in, to complete post-shift tasks after clocking out, to clock out for meal periods
18 and continue working and/or auto-deduction of meal periods not taken, and to make phone calls or
19 drive off the clock; editing and/or manipulation of time entries to show less hours than actually
20 worked, and for paying straight pay instead of overtime pay to the detriment of Plaintiff and Class
21 Members.

22 20. For at least four (4) years prior to the filing of this Action and continuing to the
23 present, Defendants have failed to pay minimum wages to Plaintiff and Class Members, or some of
24 them, in violation of California state wage and hour laws as a result of, among other things, failing
25 to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above
26 the minimum wage; engaging, suffering, or permitting employees to work off the clock, including,
27 without limitation, by failing to accurately track and/or pay for all minutes actually worked;
28 engaging, suffering, or permitting employees to work off the clock, including, without limitation,

1 by requiring employees: to leave work late without being able to clock in for all that time, to suffer
2 under Defendants' control due to lines for clocking in, to complete post-shift tasks after clocking
3 out, to clock out for meal periods and continue working and/or auto-deduction of meal periods not
4 taken, and to make phone calls or drive off the clock; editing and/or manipulation of time entries to
5 show less hours than actually worked; and failing to pay reporting time pay to the detriment of
6 Plaintiff and Class Members.

7 21. For at least four (4) years prior to the filing of this Action and continuing to the
8 present, Defendants have failed to provide Plaintiff and Class Members, or some of them, full,
9 timely thirty (30) minute uninterrupted meal period for days on which they worked more than five
10 (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on which
11 they worked in excess of ten (10) hours in a work day or auto-deducted meal periods that could not
12 be auto-deducted by law, and failing to provide compensation for such unprovided meal periods as
13 required by California wage and hour laws.

14 22. For at least four (4) years prior to the filing of this action and continuing to the
15 present, Defendants have failed to authorize and permit Plaintiff and Class Members, or some of
16 them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major fraction
17 thereof and failed to provide compensation for such unprovided rest periods as required by
18 California wage and hour laws.

19 23. For at least three (3) years prior to the filing of this action and continuing to the
20 present, Defendants have failed to pay Plaintiff and Class Members, or some of them, the full
21 amount of their wages owed to them upon termination and/or resignation as required by Labor Code
22 sections 201 and 202.

23 24. For at least one (1) year prior to the filing of this Action and continuing to the present,
24 Defendants have failed to furnish Plaintiff and Class Members, or some of them, with itemized wage
25 statements that accurately reflect gross wages earned; total hours worked; net wages earned; all
26 applicable hourly rates in effect during the pay period and the corresponding number of hours
27 worked at each hourly rate; the name and address of the legal entity that is the employer; and other
28 such information as required by Labor Code section 226, subdivision (a). As a result thereof,

1 Defendants have further failed to furnish employees with an accurate calculation of gross and gross
2 wages earned, as well as gross and net wages paid.

3 25. For at least three (3) years prior to the filing of this action and continuing to the
4 present, Defendants have failed to indemnify Class Members, or some of them, for the costs incurred
5 in laundering mandatory work uniforms; using cellular phones for work-related purposes; and
6 purchasing tools necessary to perform work duties, including without limitation, drills, plyers,
7 screwdrivers, pipe cutters, and safety gloves.

8 26. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this action
9 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7, 510,
10 512, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section 11010, seeking
11 overtime wages, minimum wages, payment of premium wages for missed meal and rest periods,
12 waiting time penalties, wage statement penalties, failure to indemnify work-related expenses, other
13 such provisions of California law, and reasonable attorneys' fees and costs.

14 27. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
15 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
16 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
17 appropriate and effective means to prevent further violations, as well as all monies owed but
18 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
19 restitution of amounts owed.

20 28. At all relevant times mentioned herein, Defendants have had a policy or practice of
21 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
22 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
23 Employees with the rates of pay and overtime rates of pay applicable to their employment;
24 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
25 name, address, and telephone number of the workers' compensation insurance carrier; information
26 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
27 under Labor Code section 2810.5.

28 / / /

1 29. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
2 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
3 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
4 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
5 all other Aggrieved Employees.

6 30. At all relevant times mentioned herein, Defendants had and have a policy or practice
7 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
8 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
9 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
10 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
11 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiffs and other
12 Aggrieved Employees.

13 31. At all relevant times herein, Defendants had and have a policy or practice of failing
14 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
15 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
16 and applicable Wage Orders.

17 32. At all relevant times mentioned herein, Defendants have had a policy or practice of
18 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
19 Section 204, which requires that: “[I]abor performed between the 1st and 15th days, inclusive, of
20 any calendar month shall be paid for between the 16th and 26th day of the month during which the
21 labor was performed, and labor performed between the 16th and the last day, inclusive of any
22 calendar month, shall be paid for between the 1st and 10th day of the following month.”

23 33. Plaintiff, in Plaintiff’s representative capacity, seeks civil penalties under Labor
24 Code sections 210, 226.3, 558, 1197.1, and 2699 for the herein-described acts, which violate the
25 California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
26 Employees pursuant to PAGA.

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CLASS ACTION ALLEGATIONS

34. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and former non-exempt employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class action is provided to the class (collectively referred to as "Class Members").

35. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b) to amend or modify the class description with greater specificity, further divide the defined class into subclasses, and to further specify or limit the issues for which certification is sought.

36. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure section 382 because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity

37. The potential Class Members as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members employed by Defendants within the State of California.

38. Accounting for employee turnover during the relevant periods necessarily increases this number. Plaintiff alleges Defendants' employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

B. Commonality

39. There are questions of law and fact common to Class Members. These common questions include, but are not limited to:

- (1) Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours worked at a proper overtime rate of pay?
- (2) Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for all other time worked at the employee's regular rate of pay and a rate of pay that

1 is greater than the applicable minimum wage?

2 (3) Did Defendants violate Labor Code section 512 by not authorizing or permitting
3 Class Members to take compliant meal periods?

4 (4) Did Defendants violate Labor Code section 226.7 by not providing Class Members
5 with additional wages for missed or interrupted meal periods?

6 (5) Did Defendants violate applicable Wage Orders by not authorizing or permitting
7 Class Members to take compliant rest periods?

8 (6) Did Defendants violate Labor Code section 226.7 by not providing Class Members
9 with additional wages for missed rest periods?

10 (7) Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
11 Members upon termination or resignation all wages earned?

12 (8) Are Defendants liable to Class Members for waiting time penalties under Labor Code
13 section 203?

14 (9) Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
15 Class Members with accurate wage statements?

16 (10) Did Defendants fail to indemnify Class Members for all necessary expenditures or
17 losses incurred in direct consequence of the discharge of their duties or by obedience
18 to the directions of Defendants as required under Labor Code section 2802?

19 (11) Did Defendants violate the Unfair Competition Law, Business and Professions Code
20 section 17200, *et seq.*, by their unlawful practices as alleged herein?

21 (12) Are Class Members entitled to restitution of wages under Business and Professions
22 Code section 17203?

23 (13) Are Class Members entitled to costs and attorneys' fees?

24 (14) Are Class Members entitled to interest?

25 **C. Typicality**

26 40. The claims of Plaintiff herein alleged are typical of those claims which could be
27 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
28 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and

1 damages arising out of and caused by Defendants' common course of conduct in violation of laws
2 and regulations that have the force and effect of law and statutes as alleged herein.

3 **D. Adequacy of Representation**

4 41. Plaintiff will fairly and adequately represent and protect the interest of Class
5 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
6 hour class actions.

7 **E. Superiority of Class Action**

8 42. A class action is superior to other available means for the fair and efficient
9 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
10 questions of law and fact common to Class Members predominate over any questions affecting only
11 individual Class Members. Class Members, as further described therein, have been damaged and
12 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
13 violation of the Labor Code at times, as set out herein.

14 43. Class action treatment will allow Class Members to litigate their claims in a manner
15 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
16 any difficulties that are likely to be encountered in the management of this action that would
17 preclude its maintenance as a class action.

18 **FIRST CAUSE OF ACTION**

19 **(Failure to Pay Overtime Wages – Against All Defendants)**

20 44. Plaintiff realleges and incorporates by reference all of the allegations contained in
21 the preceding paragraphs as though fully set forth hereat.

22 45. At all relevant times, Plaintiff and Class Members were employees or former
23 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
24 Wage Orders.

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

1 47. At all times relevant to this Complaint, Labor Code section 510 further provided that
2 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
3 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
4 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
5 pay.”

6 48. Four (4) years prior to the filing of the Complaint in this Action through the present,
7 Plaintiff and Class Members worked for Defendants during shifts that consisted of more than eight
8 (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7) consecutive
9 workdays in a workweek, without being paid overtime wages for all hours worked as a result of,
10 including but not limited to, Defendants failing to accurately track and/or pay for all minutes actually
11 worked; engaging, suffering, or permitting employees to work off the clock, including, without
12 limitation, by requiring employees: to leave work late without being able to clock in for all that time,
13 to suffer under Defendants’ control due to lines for clocking in, to complete post-shift tasks after
14 clocking out, to clock out for meal periods and continue working and/or auto-deduction of meal
15 periods not taken, and to make phone calls or drive off the clock; editing and/or manipulation of
16 time entries to show less hours than actually worked, and for paying straight pay instead of overtime
17 pay to the detriment of Plaintiff and Class Members.

18 49. Accordingly, by requiring Plaintiff and Class Members to work greater than eight (8)
19 hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays without
20 properly compensating overtime wages at the proper overtime rate of pay, Defendants willfully
21 violated the provisions of the Labor Code, among others, sections 510, 1194, and applicable IWC
22 Wage Orders, and California law.

23 50. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
24 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
25 plus interest and penalties thereon, attorneys’ fees and costs, pursuant to Labor Code section 1194
26 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

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SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

51. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

52. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

53. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class Members were entitled to receive minimum wages for all hours worked or otherwise under Defendants' control.

54. For four (4) years prior to the filing of the Complaint in this Action through the present, Defendants failed to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the minimum wage; engaging, suffering, or permitting employees to work off the clock, including, without limitation, engaging, suffering, or permitting employees to work off the clock, including, without limitation, by failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to leave work late without being able to clock in for all that time, to suffer under Defendants' control due to lines for clocking in, to complete post-shift tasks after clocking out, to clock out for meal periods and continue working, and to make phone calls or drive off the clock; editing and/or manipulation of time entries to show less hours than actually worked; and failing to pay reporting time pay to the detriment of Plaintiff and Class Members.

55. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked or otherwise due.

56. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

57. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

58. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

59. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second timely meal period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.

60. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

61. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving the right to take them, as permitted, or auto-deducted meal periods that could not be auto-deducted by law. Moreover, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not provided compliant meal periods.

62. By their failure to provide Plaintiff and Class Members compliant meal periods as contemplated by Labor Code section 512, among other California authorities, and failing to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 512 and applicable Wage Orders.

63. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay

owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

64. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

65. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

66. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

67. California law and applicable Wage Orders require that employers "authorize and permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest period, and employees who work shifts of more than ten (10) hours must be provided thirty (30) minutes of paid rest period.

68. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

69. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, not authorized or permitted to take complete, timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not authorized or permitted to take compliant rest periods.

1 wages earned prior to resignation or termination in accordance with Labor Code sections 201 or
2 202.

3 77. Plaintiff is informed and believes Defendants' failure to pay Plaintiff and Class
4 Members all wages earned prior to termination or resignation in accordance with Labor Code
5 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
6 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
7 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
8 sections 201 and 202 resulting in the failure to pay all wages earned prior to termination or
9 resignation.

10 78. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
11 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
12 resignation, until paid, up to a maximum of thirty (30) days.

13 79. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
14 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
15 prior to termination or resignation.

16 80. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
17 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
18 waiting time penalties, interest, and their costs of suit, as well.

19 **SIXTH CAUSE OF ACTION**

20 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

21 81. Plaintiff realleges and incorporates by reference all of the allegations contained in
22 the preceding paragraphs as though fully set forth hereat.

23 82. At all relevant times, Plaintiff and Class Members were employees or former
24 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

25 83. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
26 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
27 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
28 wages earned; all applicable hourly rates in effect during the pay period and the corresponding

1 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
2 employer, among other things.

3 84. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
4 before the filing of the Complaint in this Action through the present, Defendants failed to comply
5 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
6 failure, to furnish Plaintiff and Class Members with accurate itemized statements that accurately
7 reflect, among other things, gross wages earned; total hours worked; net wages earned; all applicable
8 hourly rates in effect during the pay period and the corresponding number of hours worked at each
9 hourly rate; and the name and address of the legal entity that is the employer, among other things.

10 85. Defendants' failure to provide Plaintiff and Class Members with accurate wage
11 statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff
12 and the other Class Members with accurate wage statements, but, willfully provided wage
13 statements that Defendants knew were not accurate.

14 86. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
15 suffered injury. The absence of accurate information on Class Members' wage statements at times
16 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
17 mathematical computations to determine the amount of wages owed; causes difficulty and expense
18 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
19 about wages and amounts deducted from wages to state and federal governmental agencies, among
20 other things.

21 87. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
22 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
23 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
24 pay period, not to exceed an aggregate \$4,000.00 per employee.

25 88. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
26 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
27 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
28 attorneys' fees, and costs of suit.

1 **SEVENTH CAUSE OF ACTION**

2 **(Violation of Labor Code § 2802 – Against All Defendants)**

3 89. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 90. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

7 91. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
8 his or her employee for all necessary expenditures or losses incurred by the employee in direct
9 consequence of the discharge of his or her duties . . .”

10 92. For three (3) years prior to the filing of the Complaint in this Action through the
11 present, Defendants required Plaintiff and Class Members, or some of them, to incur, necessary
12 expenditures or losses in direct consequence of the discharge of their duties or at the obedience to
13 the directions of Defendants that included, without limitation: laundering mandatory work uniforms;
14 using personal cellular phones for work-related purposes; and purchasing tools necessary to perform
15 work duties, including without limitation, drills, plyers, screwdrivers, pipe cutters, and safety
16 gloves.

17 93. During that time period, Plaintiff is informed and believes, and based thereon alleges
18 that Defendants failed and refused, and still fail and refuse to reimburse Plaintiff and Class Members
19 for those losses and/or expenditures.

20 94. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
21 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
22 herein-described losses and/or expenditures.

23 95. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
24 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
25 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys’ fees and
26 costs of suit.

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1 **EIGHTH CAUSE OF ACTION**

2 **(Unfair Competition – Against All Defendants)**

3 96. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 97. Plaintiff is informed and believes, and based thereon alleges that the unlawful
6 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
7 and Professions Code section 17200. Due to their unlawful business practices in violation of the
8 Labor Code, Defendants have gained a competitive advantage over other comparable companies
9 doing business in the State of California that comply with their obligations to compensate employees
10 in accordance with the Labor Code.

11 98. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
12 Members have suffered injury in fact and lost money or property.

13 99. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
14 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
15 Code and requiring the establishment of appropriate and effective means to prevent further
16 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
17 including interest thereon, in which they had a property interest and which Defendants nevertheless
18 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
19 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
20 by their failure to comply with the Labor Code.

21 100. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
22 Procedure section 1032 and interest under Civil Code section 3287.

23 **NINTH CAUSE OF ACTION**

24 **(Civil Penalties Under Labor Code § 210 – Against All Defendants)**

25 101. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
26 and incorporates each by reference as though fully set forth hereat.

27 102. At all relevant times herein, Labor Code section 204, requires and required that:
28 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for

1 between the 16th and 26th day of the month during which the labor was performed, and labor
2 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
3 between the 1st and 10th day of the following month.”

4 103. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
5 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
6 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
7 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
8 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
9 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
10 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

11 104. At all relevant times herein, Defendants have had a consistent policy or practice of
12 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
13 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
14 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
15 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
16 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
17 for each subsequent violation in connection with each payment that was made in violation of Labor
18 Code section 204.

19 **TENTH CAUSE OF ACTION**

20 **(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)**

21 105. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
22 and incorporates each by reference as though fully set forth hereat.

23 106. Defendants had and have a policy or practice of failing to comply with Labor Code
24 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
25 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
26 wages earned; the name and address of each employer with whom they have been placed to work;
27 all applicable hourly rates in effect during the pay period and the corresponding number of hours
28 worked at each hourly rate; the legal name of the employer; and other such information as required

1 by Labor Code section 226, subdivision (a).

2 107. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
3 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
4 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
5 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
6 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

7 108. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
8 this section are in addition to any other penalty provided by law.”

9 109. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
10 and have a policy or practice of failing to furnish non-exempt employees, including, without
11 limitation, Plaintiff, with itemized wage statements that accurately reflect gross wages earned; total
12 hours worked; net wages earned; all deductions; all applicable hourly rates in effect and the
13 corresponding number of hours worked at each hourly rate in effect during the pay period; the legal
14 name of the employer and/or the name and address of the legal entity securing the employer’s services
15 if the employer is a farm labor contractor; and other such information as required by Labor Code
16 section 226, subdivision (a).

17 110. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
18 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
19 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
20 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
21 period for each subsequent violation.

22 **ELEVENTH CAUSE OF ACTION**

23 **(Violation of Labor Code § 558 – Against All Defendants)**

24 111. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
25 and incorporates each by reference as though fully set forth hereat.

26 112. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
27 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
28 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil

1 penalty as follows:

- 2 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
3 pay period for which the employee was underpaid in addition to an amount sufficient
4 to recover underpaid wages;
- 5 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
6 employee for each pay period for which the employee was underpaid in addition to
7 an amount sufficient to recover underpaid wages;
- 8 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

9 113. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
10 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
11 causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages and minimum
12 wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during
13 their employment and after their employment separation; receive accurate, itemized wage
14 statements; be provided with the opportunity to inspect employment records; be provided with
15 notice as required under Labor Code section 2810.5; be provided with the proper accrual and use of
16 paid sick leave; and/or be paid out all paid time off and/or vacation wages owed at the proper rate
17 of pay.

18 114. As a direct and proximate result of the herein-described Labor Code violations,
19 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
20 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
21 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
22 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

23 **THIRTEENTH CAUSE OF ACTION**

24 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

25 115. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
26 and incorporates each by reference as though fully set forth hereat.

27 116. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
28 person acting either individually or as an officer, agent, or employee of another person, who pays

1 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
2 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
3 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
4 Section 203 as follows:

5 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
6 for each underpaid employee for each pay period for which the employee is
7 underpaid. This amount shall be in addition to an amount sufficient to recover
8 underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable
9 penalties imposed pursuant to Section 203.

10 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
11 (\$250) for each underpaid employee for each pay period for which the employee is
12 underpaid regardless of whether the initial violation is intentionally committed. This
13 amount shall be in addition to an amount sufficient to recover underpaid wages,
14 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
15 pursuant to Section 203.

16 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
17 Section 203, recovered pursuant to this section shall be paid to the affected
18 employee.”

19 117. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
20 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
21 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ wages for all hours
22 worked or otherwise under Defendants’ control due to, without limitation, routinely failing to
23 accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of
24 time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at
25 the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock.

26 118. As a direct and proximate result of the herein-described Labor Code violations,
27 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
28 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one

1 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
2 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
3 subsequent violation.

4 **THIRTEENTH CAUSE OF ACTION**

5 **(Civil Penalties Under Labor Code § 2699 – Against All Defendants)**

6 119. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
7 and incorporates each by reference as though fully set forth hereat.

8 120. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
9 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
10 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
11 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
12 action brought by an aggrieved employee on behalf of himself or herself and other current or former
13 employees pursuant to the procedures specified in Labor Code section 2699.3.

14 121. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
15 Code except those for which a civil penalty is specifically provided, the established civil penalty for
16 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
17 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
18 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
19 employee per pay period for each subsequent violation.

20 122. Plaintiff is informed and believes and based thereon alleges that Defendants, and
21 each of them, violated the Labor Code sections described herein, including, without limitation, for
22 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
23 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
24 employment and after employment separation; provide employees the opportunity to inspect
25 employment records; reimburse Aggrieved Employees for costs incurred in furtherance of their
26 work duties; provide notice as required under Labor Code section 2810.5; provide the proper accrual
27 and use of paid sick leave; paying employees all owed paid time off and vacation time owed by
28 separation at the proper rate of pay; entitling Plaintiff and other Aggrieved Employees to civil

1 penalties for each of these Labor Code violations in the amounts set forth in Labor Code section
2 2699, subdivision (f).

3 123. Moreover, Plaintiff and other Aggrieved Employees within the State of California
4 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
5 connection with their herein-described claims for civil penalties.

6 **DEMAND FOR JURY TRIAL**

7 124. Plaintiff demands a trial by jury on all causes of action contained herein.

8 **PRAYER**

9 WHEREFORE, on behalf of Plaintiff, Class Members and Aggrieved Employees, Plaintiff
10 prays for judgment against Defendants as follows:

- 11 A. An order certifying this case as a Class Action;
- 12 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
13 counsel as class counsel;
- 14 C. Damages for all wages earned and owed, including minimum and overtime wages
15 under Labor Code sections 510, 1194, 1197 and 1199;
- 16 D. Liquidated damages pursuant to Labor Code section 1194.2;
- 17 E. Damages for unpaid premium wages from missed meal and rest periods under,
18 among other Labor Code sections, 512 and 226.7;
- 19 F. Penalties for inaccurate wage statements under Labor Code section 226,
20 subdivision (e);
- 21 G. Waiting time penalties under Labor Code section 203;
- 22 H. Damages under Labor Code sections 2802;
- 23 I. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
24 1197.1, and 2699;
- 25 J. Preliminary and permanent injunctions prohibiting Defendants from further
26 violating the California Labor Code and requiring the establishment of appropriate
27 and effective means to prevent future violations;

28 / / /

- 1 K. Restitution of wages and benefits due which were acquired by means of any unfair
2 business practice, according to proof;
3 L. Prejudgment and post-judgment interest at the maximum rate allowed by law;
4 M. For attorneys' fees in prosecuting this action;
5 N. For costs of suit incurred herein; and
6 O. For such other and further relief as the Court deems just and proper.
7

8 Dated: July 7, 2021

BIBIYAN LAW GROUP, P.C.

9
10 BY: 

11 DIEGO AVILES

12 Attorneys for Plaintiff ROBERTO RUIZ on behalf of
13 himself and all others similarly situated
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

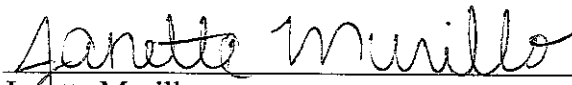
On July 7, 2021, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED CLASS ACTION AND REPRESENTATIVE COMPLAINT** to be served by electronic transmission to the below referenced electronic e-mail address as follows:

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Kieran D. Hartley, Esq.
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Counsel for Defendants

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 7, 2021 at Beverly Hills, California.



Janette Murillo