

1 **ADVOCATES FOR WORKER RIGHTS LLP**

2 MARCO A. PALAU (Bar No. 242340)

marco@advocatesforworkers.com

3 JOSEPH D. SUTTON (Bar No. 269951)

jds@advocatesforworkers.com

4 ERIC S. TRABUCCO (Bar No. 295473)

est@advocatesforworkers.com

212 9th Street, Suite 314

Oakland, California 94607

5 Telephone: (510) 269-4200

6 Facsimile: (408) 657-4684

7 Attorneys for Plaintiff

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

9 **IN AND FOR THE COUNTY OF STANISLAUS**

10 ALEXANDER NATAREN, an individual, on
11 behalf of himself and all other similarly situated
12 individuals,

13 Plaintiff,

14 vs.

15 SEMIOS USA INC., a Washington corporation;
and DOES 1-20, inclusive,

16 Defendants.

Electronically Filed

2/8/2021 8:00 AM

Superior Court of California

County of Stanislaus

Clerk of the Court

By: Mouang Saechao, Deputy

\$435 PAID

\$1000 PAID

Case No.: CV-21-000629

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay for All Hours Worked, Wage Orders and Labor Code §§ 200, *et seq.*;
2. Failure to Pay Minimum Wage; Wage Orders and Labor Code §§ 1194, 1194.2 and 1197;
3. Failure to Pay Overtime, Wage Orders and Labor Code § 510;
4. Failure to Provide Meal Periods, or Premium Wages in Lieu Thereof, Wage Orders and Labor Code §§ 512, 226.7;
5. Failure to Provide Rest Breaks or Premium Wages in Lieu Thereof, Wage Orders and Labor Code § 226.7
6. Failure to Issue Accurate Wage Statements, Wage Orders and Labor Code §§ 226, 246, *et seq.*;
7. Failure to Timely Pay All Wages Due, Wage Orders and Labor Code § 203;
8. Unfair Competition Law, Business & Professions Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL

This case has been assigned to Judge Sandhu, Sonny S.
Dept. 24
Department _____ for all purposes including Trial.

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I. INTRODUCTION

1. Alexander Nataren (“Plaintiff”) brings this class action pursuant to California Code of Civil Procedure section 382 against Semios USA Inc., and Does 1 through 20 (collectively “Defendants”) on behalf of himself and all other similarly situated non-exempt employees who worked for Defendants within the State of California (collectively referred to as the “Class” or “Class Members”) during the period four (4) years prior to the filing of the initial complaint in this action through the date of this action’s final disposition (hereinafter “Class Period”). Plaintiff brings this class action to recover unpaid wages, interest, statutory penalties and civil penalties based on Defendants’ violations of California law.

2. During the Class Period, Defendants systematically violated the employment rights of Plaintiff and the Class by engaging in widespread wage theft. At all times relevant to this action, Defendants established, maintained and enforced unlawful compensation and payroll practices and policies including, but not limited to, the following: failing to compensate Plaintiff and the Class for all hours worked at the applicable minimum and overtime wage rates; to provide Plaintiff and Class Members with timely meal periods within five hours of their respective start times, or second meal periods for shifts greater than ten hours, or otherwise pay premium wages in lieu thereof; failing to authorize and permit all lawfully owed rest breaks to Plaintiff and Class Members, or otherwise pay premium wages in lieu thereof; failing to pay all wages owed upon termination of the employment relationship; and failing to timely furnish accurate itemized statements each pay period stating, among other things, the inclusive start date of the pay period, total hours worked, gross and net wages earned at all applicable hourly rates, the employer’s U.S. address, and all premium wages earned.

3. Defendants’ acts and omissions, which violate the Labor Code, constitute predicate unlawful and unfair business practices in violation of California’s Unfair Competition Law (“UCL”), Business & Professions Code sections 17200, *et seq.* Defendants’ violations of the California Labor Code are unlawful acts which have afforded Defendants an unfair competitive advantage. Plaintiff and the Class he seeks to represent are therefore entitled to all remedies provided under the UCL, including restitutionary, injunctive, declaratory and/or other equitable relief for a period of four years from the filing of the original complaint through the date of this action’s final disposition. Plaintiff also seeks

1 reasonable attorneys' fees and costs pursuant to, *inter alia*, Labor Code sections 218.5, 2699, 226(e) &
2 (h), 1194(a), 1198.5(l), and Code of Civil Procedure section 1021.5.

3 4. Pursuant to Labor Code section 2699.3, Plaintiff has given written notice to the
4 employer and the Labor and Workforce Development Agency (LWDA) of the alleged Labor Code and
5 Wage Order violations, and the facts and theories supporting those violations. Upon the expiration of
6 the 65-day waiting period, if the Agency has yet to provide notice of its intent to investigate this
7 matter, Plaintiff will have fulfilled the administrative prerequisites of Labor Code § 2699.3, and will be
8 statutorily authorized to act on behalf of the State of California to enforce the state's labor and
9 employment laws and collect civil penalties on behalf of the state and current or former employees,
10 including themselves. Plaintiff will seek to hold Defendants and other persons who violated or caused
11 violations of the Labor Code and Wage Orders liable for civil penalties owed to the State of California
12 and current and former aggrieved employees.

13 5. At all times relevant to this action, Defendants' conduct has been willful and in reckless
14 disregard of the rights of their workers. Defendants have been on notice of the alleged illegalities but
15 have deliberately continued to exploit workers by enforcing and maintaining the illegal practices
16 described herein. This action is brought not only to recover rightfully earned wages but also to enforce
17 the state's laws, restore ill-gotten gains and deter Defendants from their illegal conduct. Plaintiff
18 therefore seeks all remedies available to themselves and to the Class.

19 II. THE PARTIES

20 6. Plaintiff Alexander Nataren is an individual who resides in California. Defendants
21 employed Plaintiff in Stanislaus County from approximately 2020 through 2021 to work in numerous
22 agricultural fields in California, including in Stanislaus County. Defendants paid Plaintiff at various
23 wage rates during his employment, including \$15.00 per hour in 2020 and in 2021. Plaintiff is an
24 aggrieved employee within the meaning of Labor Code section 2699 who has suffered injury in fact
25 and lost money or property as a result of the conduct described in this complaint. He has given notice
26 of the alleged violations, along with the facts and theories supporting them pursuant to Labor Code
27 section 2699.3, and will assert a representative claim pursuant to PAGA on behalf of the state and
28 other aggrieved employees upon the expiration of the 65-day notice period.

1 7. Defendant Semios USA Inc. (“Semios”) is a Washington corporation registered on
2 September 24, 2013, and at all times relevant to this action has done business in Stanislaus County,
3 California. The registered California address for Semios is 1267 Willis Street, Suite 200, Redding, CA
4 96001, and its agent for service of process is Registered Agents Inc., with an agent for service of
5 process address of 1267 Willis Street, Suite 200, Redding, CA 96001. At all times relevant to this
6 action, Defendant Semios owned, controlled, and/or operated a business or establishment that
7 employed persons within the meaning of The applicable Wage Order(s), operated as an employer or
8 joint employer of Plaintiff and the Class in this case and committed the acts complained of here in
9 California and in this County. Plaintiff alleges Defendant Semios is liable as an employer or “person”
10 who caused the violations alleged herein pursuant to Labor Code sections 558 and 1197.1

11 8. Plaintiff is informed and believes and therefore alleges that at all times mentioned
12 herein, each of the Defendants was the agent of every other Defendant. All acts alleged to have been
13 committed by any Defendant were committed on behalf of every other Defendant. At all times
14 relevant to this action, each alleged act was committed by Defendants, and/or agents, servants, or
15 employees of Defendants, and Defendants directed, authorized or ratified each such act. On
16 information and belief, and at all times relevant to this action, each of the Defendants aided and abetted
17 every other Defendant in the commission of acts alleged herein. Plaintiff is informed and believes and
18 therefore alleges that each Defendant and each of the fictitiously named Defendants are responsible in
19 some manner for the occurrences alleged herein and that the damages alleged herein were directly and
20 proximately caused by their conduct

21 9. The true names and capacities, whether individual, corporate, associates, or otherwise,
22 of Defendants sued as DOES One through Twenty, inclusive, are currently unknown to Plaintiff, who
23 therefore sues such Defendants by fictitious names as permitted under law, including Code of Civil
24 Procedure section 474. Plaintiff is informed and believes that each DOE Defendant is legally
25 responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court
26 to amend this Complaint to reflect the true names and capacities of the Defendants designated as
27 DOES when such identities become known.
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1 17. At all times relevant to this action, Plaintiff and, on information and belief, members of
2 the Class were scheduled to work for Defendants between five (5) and six (6) days per week. On
3 information and belief, at all times relevant to this action, shifts were scheduled to exceed nine (9)
4 hours per day, less an automatically deducted thirty (30) minute unpaid meal period, regardless of
5 whether Plaintiff and members of the Class were, in fact, provided a full net-thirty (30) minute,
6 uninterrupted meal period.

7 18. At all times relevant to this action, Plaintiff and, on information and belief, members of
8 the Class were suffered, permitted and required to perform off-the-clock work due to Defendants'
9 policies and practices. For example, Plaintiff and, on information and belief, members of the Class
10 were suffered and permitted to work during unpaid meal periods, for which Defendants automatically
11 deducted thirty (30) minutes from daily hourly totals of Plaintiff and, on information and belief,
12 members of the Class. All of these hours spent working off-the-clock by Plaintiff and, on information
13 and belief, members of the Class during their unpaid meal periods constitutes hours worked that has
14 gone and continues to go unpaid by Defendants.

15 19. On information and belief, at all times relevant to this action Defendants violated, and
16 continues to violate, the Labor Code and Wage Orders by failing to provide Plaintiff and the Class with
17 lawful meal periods. On information and belief, Defendants maintained a policy and/or practice that
18 required Plaintiff and the Class to work in excess of five (5) hours in a day without being provided a
19 timely first meal period of net thirty (30) minutes, and in excess of ten (10) hours in a day without
20 being provided a second meal period of net thirty (30) minutes. Plaintiff and, on information and
21 belief, the Class were also denied meal period premiums for denied, short or untimely meal periods.

22 20. On information and belief, at all times relevant to this action Defendants violated, and
23 continues to violate, the Labor Code and Wage Orders by failing to authorize and permit rest breaks of
24 at least net 10 minutes of rest time at the required rate of two breaks for shifts between four and up to
25 10 hours, three breaks for shifts greater than 10 hours and so on. Plaintiff and, on information and
26 belief, the Class regularly worked more than six hours in a day without being authorized or permitted
27 to take a 10-minute duty-free rest periods for each four hours, or a major fraction thereof, worked.
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1 Plaintiff and, on information and belief, the Class were denied rest premiums for denied, short or
2 untimely rest breaks.

3 21. On information and belief, at all times relevant to this action Defendants knew or
4 should have known that Plaintiff and the Class were entitled to receive all wages owed to them during
5 their employment. Nevertheless, on information and belief, Plaintiff and the Class did not receive
6 payment of all wages, including overtime wages and meal period and rest break premiums, within any
7 time permissible pursuant to Labor Code section 204.

8 22. At all times relevant to this action, Defendants knowingly and willfully failed to furnish
9 itemized wage statements within the meaning of the Wage Orders and Labor Code section 226 that
10 accurately show, *inter alia*, gross and net wages earned, total hours worked, piece rate units earned,
11 applicable rates of pay, the employer's U.S. address, and all deductions made. Additionally, at all
12 times relevant to this action, Defendants knowingly and willfully furnished Plaintiff and, on
13 information and belief, members of the Class wage statements that failed to include the inclusive start
14 date of the pay period.

15 23. On information and belief, the wage statements provided by Defendants to Plaintiff and
16 the Class fail to meet this standard because they inaccurately show gross and net wages earned due to
17 Defendants' failure to pay for all hours worked, failure to pay at the required agreed-upon or statutory
18 rates for all hours worked, and failure to pay premium wages in lieu of meal periods and rest breaks.
19 Defendants' wage statements inaccurately list all the hourly rates in effect during the pay period and
20 corresponding number of hours due to the failure to pay for all hours worked, failure to pay meal
21 period and rest break premiums, and failure to pay at the required rates as described herein. As a result
22 of these failures, at all times relevant to this action, Defendants failed to maintain accurate payroll
23 records within the meaning of the Wage Orders and Labor Code section 1174.

24 24. At times relevant to this action, itemized wage statements issued to Plaintiff and the
25 Class by Defendants failed to accurately set forth the amount of accrued paid sick leave available for
26 use by Plaintiff and members of the Class, failed to accurately set forth periodic accrual of paid sick
27 days at the rate of at least one hour per every thirty (30) hours worked.

28 25. On information and belief, Defendants have willfully failed to timely pay all wages

owed to Plaintiff and the Class upon every termination of their seasonal employment with Defendants, including wages for all hours worked, overtime wages, meal and rest period premium wages. For Defendants' willful failure to pay all wages timely, Plaintiff's and the Class' wages continue from the due date for up to 30 days at this daily rate, pursuant to Labor Code section 203.

26. On information and belief, Defendants knew or should have known that they had a duty to compensate Plaintiff and members of the Class pursuant to California law, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff and the Class that they were properly paid all wages, in order to increase Defendants' profits and obtain an unfair advantage over Defendants' competition.

V. CLASS ALLEGATIONS

27. Plaintiff brings this action as a class action under Code of Civil Procedure section 382 on behalf of the following class:

All non-exempt agricultural employees who work or have worked for Defendants within the State of California during the period four (4) years prior to the filing of the initial complaint in this action through the date of this action's final disposition, plus any tolling for other class and representative actions.

28. **Reservations of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definitions with greater specificity, by further division into subclasses, and/or by limitation to particular issues.

29. **Numerosity:** The Proposed Class is so numerous that joinder of all members is impracticable. Plaintiff is informed and believes, and on that basis alleges, that during the relevant time period, Defendants employed an estimated forty (40) or more individuals who satisfy the definition of the Proposed Class. The Class Members are so numerous that joinder of all Class Members is impracticable. The individuals and the identity of such membership is readily ascertainable by inspection of Defendants' records.

30. **Typicality:** Plaintiff's claims are typical of all other Class Members as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other Class Members with whom Plaintiff has a well-defined community of interest.

1 31. **Adequacy:** Plaintiff will fairly and adequately protect the interests of each class
2 member, with whom he has a well-defined community of interest and typicality of claims, as
3 demonstrated herein. Plaintiff has no interest that is antagonistic to the other Class Members.
4 Plaintiff’s attorneys, the proposed class counsel, are versed in the rules governing class action
5 discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action
6 will continue to incur, costs and attorneys’ fees, that have been, are, and will be necessarily expended
7 for the prosecution of this action for the substantial benefit of each class member. Plaintiff has
8 retained competent counsel experienced in wage and hour class action litigation.

9 32. **Predominant Common Questions:** Common questions of law and fact exist to all
10 members of the Proposed Class and predominate over any questions solely affecting individual
11 members of the Proposed Class. Common questions of fact and law predominate, including the
12 following:

- 13 a. Whether Defendants failed to compensate Plaintiff and members of the Class for all
14 “hours worked,” within the meaning of the applicable Wage Orders;
- 15 b. Whether Defendants suffered, permitted, and/or required Plaintiff and the Class to work
16 in excess of the applicable California overtime thresholds without proper payment of overtime
17 wage premiums, in violation of the Labor Code and the Wage Orders;
- 18 c. Whether Defendants suffered, permitted, and/or required Plaintiff and the Class to work
19 in excess of twelve (12) hours per day and/or in excess of eight (8) hours on the seventh (7th)
20 consecutive workday in a workweek, and failed to pay the legally required double-time
21 compensation, in violation of the Labor Code and the Wage Orders;
- 22 d. Whether Defendants, as a matter of policy or practice, failed to relieve Plaintiff and the
23 Class of all duty for a first net thirty (30) minute meal period before the end of the fifth (5th)
24 hour of shifts, in violation of the Labor Code, the Wage Orders, and California law;
- 25 e. Whether Defendants, as a matter of policy or practice, failed to relieve Plaintiff and the
26 Class of all duty for a second net thirty (30) minute meal period before the end of the tenth
27 (10th) hour of shifts, in violation of the Labor Code, the Wage Orders, and California law;

- 1 f. Whether Defendants, as a matter of policy or practice, failed to permit Plaintiff and the
2 Class to take net ten (10) minute rest breaks for each four (4) hour work period, or major
3 portion thereof, in violation of the Labor Code, the Wage Orders, and California law;
- 4 g. Whether Defendants, as a matter of policy or practice, failed to make good faith efforts
5 to provide Plaintiff and the Class with rest breaks during the middle of each four (4) hour work
6 period, in violation of the Labor Code, the Wage Orders, and California law;
- 7 h. Whether Defendants, as a matter of policy or practice, failed to pay Plaintiff and the
8 Class premium wages for all unlawfully provided meal periods and rest breaks, in violation of
9 the Labor Code, the Wage Orders, and California law;
- 10 i. Whether Defendants knowingly and intentionally failed to provide Plaintiff and the
11 Class written wage statements showing the inclusive start date of the pay period, and which
12 accurately reflect all gross and net wages earned, total hours worked, and all deductions made,
13 in violation of the applicable Wage Order(s), Labor Code section 226, and California law;
- 14 j. Whether Defendants failed to provide written wage statements that accurately reflect
15 Plaintiff' and the Class' available, used, and/or accrued paid sick leave, in violation of the
16 Healthy Workplaces, Healthy Families Act and California law;
- 17 k. Whether Plaintiff and the Class are deemed to have suffered injury within the meaning
18 of Labor Code section 226 for the wage statement violations described herein;
- 19 l. Whether Defendants' conduct as described herein was willful or reckless;
- 20 m. Whether Defendants engaged in unlawful and/or unfair business practices in violation
21 of Business & Professions Code sections 17200 et seq. ("UCL");
- 22 n. Whether Defendants are liable to Plaintiff and the Class pursuant to the UCL for
23 restitution of unpaid or underpaid statutory and/or agreed upon regular, minimum, overtime,
24 and/or double-time wages;
- 25 o. Whether Defendants are liable to Plaintiff and the Class pursuant to the UCL for
26 restitution of premium wages for unlawfully failing to provide meal periods and rest breaks;
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1 p. Whether Plaintiff and members of the class whose employment terminated are entitled
2 to waiting time penalties under Labor Code section 203 for Defendants' failure to timely pay
3 all wages owed upon the separation from employment;

4 q. Whether Defendants are liable for damages, restitution, and/or penalties earned, due,
5 and/or owing to Plaintiff and the Class resulting from Defendants' violation of the Labor Code,
6 the Wage Orders, and California law; and

7 r. Whether Plaintiff and the Class are entitled to compensatory damages pursuant to the
8 Labor Code.

9 33. **Superiority:** A class action is superior to other available methods for the fair and
10 efficient adjudication of the controversy, particularly in the context of wage and hour litigation where
11 individual plaintiff lacks the financial resources to vigorously prosecute separate lawsuits against
12 corporate defendants. A class action is superior to other available means for fair and efficient
13 adjudication of class members' claims and offers significant benefits to the parties and the court. A
14 class action will allow a number of similarly situated persons to simultaneously and efficiently
15 prosecute their common claims in a single forum without the unnecessary duplication of effort and
16 expense that numerous individual actions would entail. The individual monetary amounts due to many
17 class members may not be large enough on their own for individual class members to obtain legal
18 representation and relief. Moreover, a class action will serve important public interests by enabling the
19 non-waivable statutory rights of class members to be effectively asserted, and fundamental public
20 policies to be vindicated, in one proceeding. A class action will also provide a means for vindicating
21 the rights of workers who currently provide courier services to Defendants and are less likely to come
22 forward to assert their rights based on fears of reprisal. Finally, a class action will prevent the potential
23 for inconsistent or contradictory judgments inherent in individual litigation and address the problems
24 inherent in random and fragmentary enforcement.

25 34. Plaintiff intends to send notice to all members of the Class to the extent required by
26 Labor Code section 382. The names and addresses of the Class are available from Defendants.

1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 Failure to Pay for All Hours Worked
4 (Violation of Wage Orders and Labor Code sections 200, 204, 204b)
5 Plaintiff on Behalf of the Class Against all Defendants

6 35. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

7 36. At all relevant times, Defendants have been subject to Labor Code and Wage Order
8 provisions requiring compensation for all “hours worked.” Defendants violated the Wage Orders and
9 Labor Code sections 200, *et seq.* by failing to compensate Plaintiff and, on information and belief, the
10 Class for all hours worked.

11 37. The applicable Wage Order(s) define hours worked as all “time during which an
12 employee is subject to the control of an employer and includes all the time the employee is suffered or
13 permitted to work, whether or not required to do so.” Further, the Wage Orders and California law
14 require compensation for small fractions of time or *de minimis* time.

15 38. Defendants’ conduct violates provisions of Local Ordinances, the Wage Orders and
16 Labor Code. Defendants have secretly paid Plaintiff and, on information and belief, the Class less than
17 the rates designated by statute or contract while purporting to pay the designated rates and have
18 violated Labor Code sections 204 and 204b by failing to pay all wages owed weekly or semi-monthly.

19 39. Wherefore, Plaintiff seeks unpaid wages, interest, costs and attorneys’ fees in amounts
20 to be proven at trial on behalf of himself and the Class.

21 **SECOND CAUSE OF ACTION**

22 Failure to Pay Legal Minimum Wage
23 (Violation of the Wage Orders and Labor Code sections 1194, 1194.2 and 1197 and Local Ordinances)
24 Plaintiff on Behalf of the Class Against all Defendants

25 40. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

26 41. California Labor Code section 1182.12 establishes the minimum wage for all industries
27 as: \$10.50 per hour for the period January 1, 2017, to December 31, 2017, inclusive; \$11.00 per hour
28 for the period January 1, 2018, to December 31, 2019, inclusive; \$12.00 per hour for the period
January 1, 2019 to December 31, 2019, inclusive; and \$13.00 per hour for the period January 1, 2020
to December 31, 2020. The applicable Wage Order(s) provide similar guidance regarding the payment

1 of minimum wages.

2 42. At all times relevant to this action, Defendants failed to compensate Plaintiff and the
3 Class for all hours worked each workday, failing to pay for hours worked off-the-clock.

4 43. At all relevant times, Defendants have been subject to Labor Code and Wage Order
5 provisions requiring compensation at no less than the legal minimum wage. Defendants violated the
6 Wage Orders and Labor Code sections 1194 and 1197 by failing to compensate Plaintiff and, on
7 information and belief, the Class for all hours worked at the legal minimum rates established in
8 California and various municipalities where employees worked.

9 44. At all times relevant to this action, Plaintiff and the Class were entitled to compensation
10 at rates that were not less than the legal minimum wage, pursuant to the Local Ordinance, Wage
11 Orders and Labor Code sections 1182.12, 1194 and 1197. Defendants violated these provisions by
12 failing to compensate for all hours worked.

13 45. Pursuant to Labor Code section 1194.2, because Plaintiff seeks to recover wages in this
14 action resulting from Defendants' payment of a wage less than the minimum wage fixed by an order of
15 the commission or by statute, they are entitled to recover liquidated damages in an amount equal to the
16 wages unlawfully unpaid and interest thereon.

17 46. Wherefore, Plaintiff seeks unpaid wages, interest, costs and attorneys' fees in amounts
18 to be proven at trial on behalf of himself and the Class.

19 **THIRD CAUSE OF ACTION**

20 Failure to Pay Overtime Wages

21 (Violation of Wage Orders and Labor Code sections 510, 1194, 1198)

22 Plaintiff on Behalf of the Class Against all Defendants

23 47. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

24 48. At all relevant times, Defendants have been subject to Labor Code and Wage Order
25 provisions requiring overtime compensation, including the applicable Wage Orders and Labor Code
26 sections 510, 1194, 1198.

27 49. The applicable Wage Order(s), Section 3(A), establishes that employees in the
28 agricultural industry are entitled to overtime pay at the rate of one-and-one-half (1½) times the regular
rate of pay: after ten (10) hours in a workday or sixty (60) hours in a workweek prior to January 1,

2019; after nine and one half (9.5) hours in a workday or fifty-five (55) hours in a workweek starting January 1, 2019; after nine (9) hours in a workday or fifty (50) hours in a workweek starting January 1, 2020; and after eight and one half (8.5) hours in a workday or forty-five (45) hours in a workweek starting January 1, 2021.

50. California law requires overtime compensation at the rate of one-and-one-half (1½) times the regular rate of pay, and twice the regular rate of pay for hours in excess of twelve (12) in a workday and eight (8) on any seventh day of a workweek (i.e., double-time pay).

51. At all times relevant to this action, Plaintiff and, on information and belief, the Class have worked in excess of the overtime thresholds applicable to agricultural employees pursuant to The applicable Wage Order(s) without compensation for all hours worked at the required overtime rates.

52. Wherefore, Plaintiff seeks unpaid wages, interest, costs and attorneys' fees in amounts to be proven at trial on behalf of himself and the Class.

FOURTH CAUSE OF ACTION

Failure to Provide Meal Periods, or Premium Wages in Lieu Thereof
(Violation of Wage Orders and Labor Code sections 226.7 and 512)
Plaintiff on Behalf of the Class Against all Defendants

53. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

54. California Labor Code section 512 and the Wage Orders prohibit employers from employing workers for a work period of more than five hours per day without providing the employee with a meal period of at least 30 minutes, or for a work period of more than 10 hours without a second meal period of at least 30 minutes. California law requires the meal periods to be off duty, without interruption, and the first meal period of the day must occur within five hours from the start of the shift.

55. California Labor Code section 226.7 prohibits any employer from requiring any employee to work during any meal period mandated by the applicable Wage Orders, and states that an employer that fails to provide an employee with a required meal period in compliance with Section 512 and the Wage Orders shall pay that employee one additional hour of pay at the employee's regular rate of compensation (i.e., a meal period premium) for each work day that the employer does not provide a

1 compliant meal period.

2 56. The applicable Wage Orders echo the provisions of Sections 226.7 and 512 of the Labor
3 Code governing meal periods. For example, The applicable Wage Order(s)(11), provides as follows:

4 (A) An employer may not employ an employee for a work period of more than
5 five (5) hours without providing the employee with a meal period of not less
6 than 30 minutes, except that when a work period of not more than six (6) hours
7 will complete the day's work the meal period may be waived by mutual consent
8 of employer and employee. Unless the employee is relieved of all duty during
9 a 30 minute meal period, the meal period shall be considered an "on duty" meal
10 period and counted as time worked. An "on duty" meal period shall be
11 permitted only when the nature of the work prevents an employee from being
12 relieved of all duty and when by written agreement between the parties an on-
13 the-job paid meal period is agreed to.

14 (B) An employer may not employ an employee for a work period of more than
15 ten (10) hours per day without providing the employee with a second meal
16 period of not less than 30 minutes, except that if the total hours worked is no
17 more than 12 hours, the second meal period may be waived by mutual consent
18 of the employer and the employee only if the first meal period was not waived.
19 (See California Labor Code, Section 512)

20 57. At all times relevant to this action, Defendants violated the provisions of the Labor
21 Code and Wage Orders regulating meal periods by failing to comply with the requirement of providing
22 to Plaintiff and, on information and belief, the Class with a timely, net thirty (30) minute meal period
23 within the first five (5) hours of work that was completely off duty, or a second net thirty (30) minute
24 meal period when workers worked more than 10 hours per day. Plaintiff and, on information and
25 belief, the Class did not waive meal periods, and Plaintiff is informed and believes and thereon alleges
26 that valid meal period waivers were not in place or were not voluntarily consented to.

27 58. Defendants are liable for meal period premium wages pursuant to Labor Code section
28 226.7.

59. Wherefore, Plaintiff seeks unpaid wages and interest in amounts to be proven at trial on
behalf of himself and the Class.

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FIFTH CAUSE OF ACTION

Failure to Provide Rest Breaks, or Premium Wages in Lieu Thereof
(Violation of Wage Orders and Labor Code section 226.7)

Plaintiff on Behalf of the Class Against all Defendants

60. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

61. California Labor Code section 226.7 prohibits any employer from requiring an employee to work during any rest period mandated by the applicable Wage Orders. For example, The applicable Wage Order(s)12) provides as follows:

Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

62. At all times relevant to this action, Defendants failed to authorize and permit rest periods to Plaintiff and, on information and belief, the Class with of at least 10 minutes of time completely off duty at a rate of one rest period for shifts greater than three and one-half (3.5) hours up to six hours, two rest breaks for shifts greater than six hours up to 10 hours, and three rest breaks for shifts greater than 10 hours up to 14 hours, and so on. Further, Defendants, as a matter of policy or practice, failed to make good faith efforts to provide Plaintiff and the Class with rest breaks during the middle of each four (4) hour work period, in violation of the Labor Code, the Wage Orders, and California law.

63. Defendants are liable for rest break premium wages pursuant to Labor Code § 226.7.

64. Wherefore, Plaintiff seeks unpaid wages and interest in amounts to be proven at trial on behalf of himself and the Class.

SIXTH CAUSE OF ACTION

Failure to Provide Accurate Itemized Wage Statements
(Violation of Labor Code section 226 and the Wage Orders)

Plaintiff on Behalf of the Class Against all Defendants

65. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

1 66. California Labor Code section 226(a) provides, in relevant part, that every employer
2 must furnish each employee with an itemized wage statement that accurately shows the following:

3 (1) gross wages earned, (2) total hours worked by the employee, except as
4 provided in subdivision (j), (3) the number of piece-rate units earned and any
5 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
6 deductions, provided that all deductions made on written orders of the employee
7 may be aggregated and shown as one item, (5) net wages earned, (6) the
8 inclusive dates of the period for which the employee is paid, (7) the name of the
9 employee and only the last four digits of his or her social security number or an
10 employee identification number other than a social security number, (8) the
11 name and address of the legal entity that is the employer and, if the employer is
12 a farm labor contractor, as defined in subdivision (b) of Section 1682, the name
13 and address of the legal entity that secured the services of the employer, and (9)
14 all applicable hourly rates in effect during the pay period and the corresponding
15 number of hours worked at each hourly rate by the employee....

16 67. At all times relevant to this action, Defendants have failed to provide accurate itemized
17 wage statements, in violation of Labor Code section 226. First, Defendants failed to provide Plaintiff
18 and, on information and belief, members of the Class itemized wage statements that included the
19 inclusive start date of the pay period and the employer's U.S. address. Also, by failing to pay Plaintiff
20 and the Class for all off-the-clock hours worked and minimum wages owed, and/or premium wages for
21 unlawfully-provided meal periods and/or rest breaks, Defendants have furnished Plaintiff and the Class
22 with itemized wage statements that do not accurately reflect, among other things, gross and net wages
23 earned, the total number of hours worked, and the applicable rates of pay and corresponding number of
24 hours at each rate of pay.

25 68. At all times relevant to this action, Defendants have failed to provide accurate itemized
26 wage statements containing the information required under the Healthy Workplaces, Healthy Families
27 Act of 2014, California Labor Code §§ 246, *et seq.* On information and belief, Defendants failed to
28 accurately state the amount of accrued paid sick days available to Plaintiff and other current or former
employees in either itemized wage statements or a separate writing given each pay period.

 69. At all times relevant to this action, Defendants failed to furnish Plaintiff and the Class
with accurate itemized wage statements during pay periods in which they earned piece rate
compensation that separately state the total hours of compensable rest and recovery periods, the rate of

1 compensation of compensable rest and recovery periods, and the gross wages paid for compensable
2 rest and recovery periods during the pay period. Additionally, when Plaintiff and the Class earned
3 piece rate compensation, Defendants failed to furnish Plaintiff and the Class with accurate itemized
4 wage statements that separately state the total hours of nonproductive time, the rate of compensation of
5 nonproductive time, and the gross wages paid for nonproductive time during the pay period.

6 70. Defendants' failure to comply with the requirements of Labor Code sections 226, and
7 246, *et seq.* and provide accurate wage statements was knowing and intentional within the meaning of
8 that provision. Plaintiff and members of the putative Class are deemed to have suffered injury
9 pursuant to Labor Code section 226(e).

10 71. Pursuant to Labor Code section 226(e), Plaintiff and class members are entitled to
11 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
12 violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not to
13 exceed an aggregate penalty of four thousand dollars (\$4,000).

14 72. Wherefore, Plaintiff seeks damages, penalties, injunctive relief, attorney's fees and cost
15 of suit in amounts to be proven at trial on behalf of himself and the Class.

16 **SEVENTH CAUSE OF ACTION**

17 Willful Failure to Pay All Wages Owed Timely Upon Discharge or Resignation
18 (Violation of Labor Code sections 201 and 202)
19 Plaintiff on Behalf of the Class Against all Defendants

20 73. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

21 74. California Labor Code sections 201 and 202 require immediate payment of all unpaid
22 wages at the time an employee is discharged or resigns from employment.

23 75. Defendants have willfully failed to pay all wages owed to Plaintiff and, on information
24 and belief, members of the Class timely upon the termination of their employment relationship with
25 Defendants, including wages for all hours worked, overtime wages, meal and rest period premium
26 wages. For Defendants' willful failure to pay all wages timely, Plaintiff's and the Class' wages
27 continue from the due date for up to 30 days at this daily rate, pursuant to Labor Code section 203.

28 76. This violation serves as a predicate for PAGA penalties payable to the state and
workforce.

77. Wherefore, Plaintiff seeks waiting time penalties and costs in amounts to be proven at trial on behalf of himself and the Class.

EIGHTH CAUSE OF ACTION

California Unfair Competition Law

(Violation of Business & Professions Code sections 17200, *et seq.*)

Plaintiff on Behalf of the Class Against all Defendants

78. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

79. Business and Professions Code section 17200 defines “unfair competition” to include any unlawful business practice.

80. California Business and Professions Code § 17203 allows a person who has lost money or property as a result of unfair competition to bring an action to recover money or property that may have been acquired from similarly situated persons by means of unfair competition.

81. Defendants unlawful and unfair business practices resulted in the following violations of California Labor Code and Wage Order provisions:

- Failure to compensate for all hours worked within the meaning of the Wage Orders;
- Failure to comply with the legal minimum wage set forth under California law and various local ordinances, in violation of the Wage Orders, Labor Code and local ordinances;
- Failure to comply with the overtime laws set forth in the Wage Orders, Labor Code and local ordinances;
- Failure to pay meal period premium wages for non-compliance with the meal period provisions of the Labor Code and Wage Orders;
- Failure to pay rest break premium wages for non-compliance with the rest period requirements of the Labor Code and Wage Orders;
- Failure to provide accurate itemized wage statements in violation of Labor Code sections 226, and 246, *et seq.*; and
- Failure to pay all wages owed timely upon termination of the employment relationship, as required by Labor Code section 201 and 202;

82. On information and belief, at all times relevant to this action, Plaintiff and the Class have lost, and Defendants have either acquired, or may have acquired, money or property in the form

1 of earned unpaid wages for all hours worked, unpaid overtime and double-time wages, unpaid meal
2 period and rest break premium wages, and unpaid vacation wages, by means of unfair competition as a
3 result of Defendants' unlawful failure to pay those wages in violation of the requirements of the Labor
4 Code and the Wage Orders.

5 83. Pursuant to Business and Professions Code section 17203, Plaintiff seeks restitution of
6 all these moneys and property, that Defendants either acquired, and/or may have acquired, from
7 Plaintiff and the Class by means of unfair competition in amounts subject to proof at trial. Plaintiff
8 also seeks to prevent Defendants from continuing to engage in the unlawful and/or unfair business
9 practices alleged herein.

10 84. Defendants, by the acts or omissions alleged of herein, have injured and are injuring the
11 interests of the general public in that other employers who exercise honest compliance with applicable
12 wage and hour laws, including the laws violated by Defendants, are at an unfair competitive
13 disadvantage as a result of Defendants' conduct.

14 85. Wherefore, Plaintiff seeks restitution of wages and the economic value of benefits
15 unlawfully denied to Plaintiff and the Class by Defendants in amounts subject to proof.

16 **VII. PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for relief as follows:

18 1. For an order awarding compensatory damages for all wages earned but not paid, and all
19 overtime and double-time wages earned and not paid, in the amount to be proven at trial, pursuant to
20 Labor Code sections 200, *et seq.*, 510, 1194, 1197, and 1198;

21 2. For pre-judgment interest of ten percent (10%) on the unpaid wages and overtime
22 compensation owed under Labor Code section 218.6;

23 3. For an order awarding unpaid overtime, minimum wage and liquidated damages under
24 Labor Code sections 1194 and 1194.2;

25 4. For an award of attorney's fees pursuant to Labor Code section 1194;

26 5. For an order awarding meal period premium wages pursuant to Labor Code section
27 226.7;
28

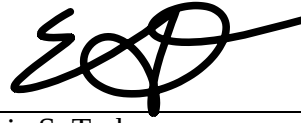
6. For an order awarding rest break premium wages pursuant to Labor Code section 226.7;
7. For an award of statutory penalties to the class pursuant to Labor Code section 226 and 226.2;
8. For injunctive relief under Labor Code 226;
9. For an award of attorneys' fees pursuant to Labor Code section 226;
10. For earned but unpaid wages as equitable relief to Plaintiff and the class under the UCL for a period that extends the statute of limitations or recovery period for wages to four years;
11. For declaratory judgment that the actions, conduct, and practices of Defendants complained of herein constitute unfair business practices under the UCL;
12. For an injunction and order permanently restraining and enjoining Defendants from engaging in and continuing the unlawful policies and practices complained of herein;
13. For an order certifying a class of non-exempt employees who worked for Defendants within the State of California during the period four (4) years prior to the filing of the initial complaint in this action through the date of this action's final disposition;
14. For an order that Alexander Nataren be appointed class representative;
15. For an order that counsel for Plaintiff be appointed class counsel;
16. For reasonable attorney's fees and costs, including expert witness fees, pursuant to Code of Civil Procedure section 1021.5 and Labor Code sections 226, and 1194, among others;
17. For an order awarding Plaintiff interest to the extent permitted by law;
18. For costs and expenses of this action; and
19. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demand a trial by jury on claims so triable.

1 Dated: February 8, 2021

2 **ADVOCATES FOR WORKER RIGHTS LLP**

3 

4 Eric S. Trabucco
5 Attorneys for Plaintiff