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County of Santa Barbara
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on behalf of himself and all others similarly situated and aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA**

JUAN MEZA MENDEZ, an individual and on
behalf of all others similarly situated and
aggrieved,

Plaintiff,

v.

COASTAL VINEYARD CARE
ASSOCIATES, a California corporation;
PORTICO HILLS VINEYARD, LLC a
California limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 21CV00746

**FIRST AMENDED CLASS ACTION
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 SECTION 210;
10. PENALTIES PER LABOR CODE SECTION 558;
11. PENALTIES PER LABOR CODE SECTION 1197.1; and
12. PENALTIES PER LABOR CODE SECTION 2699.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff JUAN MEZA MENDEZ ("Plaintiff"), on behalf of Plaintiff and all others similarly situated, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against COASTAL VINEYARD CARE ASSOCIATES ("Coastal"), and any of its respective subsidiaries or affiliated companies within the State of California and PORTICO HILLS VINEYARD, LLC, and any of its respective subsidiaries or affiliated companies within the State of California ("PORTICO" and "COASTAL", with 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 COASTAL, and any of its respective subsidiaries or affiliated companies within the State of California, and PORTICO, 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 violations of the Labor Code, including but not limited to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, 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 JUAN MEZA MENDEZ 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 JUAN MEZA MENDEZ as a non-exempt employee, with duties that included, but were not limited to, tractor driving and tractor repair. Plaintiff is informed and believes, and

1 based thereon alleges that Plaintiff JUAN MEZA MENDEZ worked for Defendants from
2 approximately January of 2019 through approximately August 24, 2020.

3 **B. Defendants**

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

8 5. Plaintiff is informed and believes and based thereon alleges that defendant
9 PORTICO is, and at all times relevant hereto was, a limited liability company organized and existing
10 under and by virtue of the laws of the State of California and doing business in the County of Santa
11 Barbara, State of California.

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

25 **JOINT LIABILITY ALLEGATIONS**

26 7. Plaintiff is informed and believes and based thereon alleges that all the times
27 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
28 representative, joint venture or co-conspirator of each of the other defendants, either actually or

1 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
2 employment, joint venture, and conspiracy.

3 8. All of the acts and conduct described herein of each and every corporate defendant
4 was duly authorized, ordered, and directed by the respective and collective defendant corporate
5 employers, and the officers and management-level employees of said corporate employers. In
6 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
7 their said employees, agents, and representatives, and each of them; and upon completion of the
8 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
9 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
10 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
11 aforementioned corporate employees, agents and representatives.

12 9. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
13 thereon alleges that Defendants, and each of them, are joint employers.

14 **JURISDICTION**

15 10. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
16 of Civil Procedure section 410.10.

17 11. Venue is proper in Santa Barbara County, California pursuant to Code of Civil
18 Procedure sections 392, et seq. because, among other things, Santa Barbara County is where the
19 causes of action complained of herein arose; the county in which the employment relationship
20 began; the county in which the employment contract, or part of it, between Plaintiff and Defendants
21 was actually performed; and the county in which Defendants, or some of them, reside. Moreover,
22 the unlawful acts alleged herein have a direct effect on Plaintiff and Class Members in Santa Barbara
23 County, and because Defendants employ numerous Class Members in Santa Barbara County.

24 12. Plaintiff is an "aggrieved employee" under PAGA, as Plaintiff was employed by
25 Defendants during the applicable statutory period and suffered one or more of the Labor Code
26 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term "civil
27 penalty" is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
28 Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq. ("PAGA") plus

1 reasonable attorneys' fees and costs, for Plaintiff and all other aggrieved current and former
2 employees of Defendants during the Class Period.

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

7 14. During the period beginning one (1) year preceding the provision of notice to the
8 LWDA regarding the herein-described Labor Code violations (the "Civil Penalty Period"),
9 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
10 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
11 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

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

16 16. On or around February 3, 2021, Plaintiff provided written notice pursuant to Labor
17 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
18 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
19 as well as by certified mail, with return receipt requested to Defendants, and each of them.

20 17. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
21 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
22 calendar days of the February 3, 2021 postmarked date of the herein-described notice sent by
23 Plaintiff to the LWDA and Defendants.

24 **FACTUAL BACKGROUND**

25 18. For at least four (4) years prior to the filing of this action and continuing to the
26 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
27 some of them, in violation of California state wage and hour laws as a result of, without limitation,
28 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and

1 seven consecutive work days in a work week without being properly compensated for hours worked
2 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
3 worked on the seventh consecutive work day in a work week by, among other things, failing to
4 accurately track and/or pay for all hours actually worked at the proper overtime rate of pay including
5 but not limited to, requiring employees to perform pre and post shift duties while off of the clock,
6 requiring employees to work through both rest and lunch breaks, and splitting employee shifts into
7 two separate shifts to avoid overtime pay to the detriment of Plaintiff and Class Members.

8 19. For at least four (4) years prior to the filing of this Action and continuing to the
9 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members,
10 or some of them, in violation of California state wage and hour laws as a result of, among other
11 things, at times, failing to accurately track and/or pay for all hours actually worked at their regular
12 rate of pay that is above the minimum wage including but not limited to, requiring employees to
13 perform pre and post shift duties while off of the clock, requiring employees to work through both
14 rest and lunch breaks, and splitting employee shifts into two separate shifts to avoid overtime pay
15 to the detriment of Plaintiff and Class Members.

16 20. For at least four (4) years prior to the filing of this Action and continuing to the
17 present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them,
18 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
19 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
20 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
21 for such unprovided meal periods as required by California wage and hour laws.

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

27 22. For at least three (3) years prior to the filing of this action and continuing to the
28 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the

1 full amount of their wages owed to them upon termination and/or resignation as required by Labor
2 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
3 minimum wages, premium wages.

4 23. For at least one (1) year prior to the filing of this Action and continuing to the present,
5 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
6 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
7 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
8 hours worked at each hourly rate; the name and address of the legal entity that is the employer; the
9 name and address of the entity securing the services of the farm labor contractor who employed
10 Plaintiff and Class Members; and other such information as required by Labor Code section 226,
11 subdivision (a). As a result thereof, Defendants have further failed to furnish employees with an
12 accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

13 24. For at least three (3) years prior to the filing of this action and continuing to the
14 present, Defendants have, at times, failed to indemnify Class Members, or some of them, for the
15 costs incurred in mileage and/or gas costs incurred in driving personal vehicles for work-related
16 purposes and purchasing tools necessary to perform work duties including, but not limited to, tractor
17 repair tools, gloves, and scissors.

18 25. At all relevant times mentioned herein, Defendants had and have a policy or practice
19 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
20 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
21 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
22 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
23 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiff and other
24 Aggrieved Employees.

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

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

9 28. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
10 other Class Members with the amount of paid sick leave required to be provided pursuant to
11 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
12 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
13 all other Class Members.

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

20 30. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this action
21 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7, 404,
22 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section
23 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and
24 rest periods, waiting time penalties, wage statement penalties, failure to indemnify work-related
25 expenses, failure to pay interest on deposits made, other such provisions of California law, and
26 reasonable attorneys' fees and costs.

27 31. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
28 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate

1 the California Labor Code as described above, including on behalf of Plaintiff and other Class
2 Members pursuant to PAGA.

3 32. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
4 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
5 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
6 appropriate and effective means to prevent further violations, as well as all monies owed but
7 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
8 restitution of amounts owed.

9 CLASS ACTION ALLEGATIONS

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

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

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

21 A. Numerosity

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

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27 ///

28 ///

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

5 **B. Commonality**

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

- 8 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
9 worked at a proper overtime rate of pay?
- 10 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
11 for all other time worked at the employee's regular rate of pay and a rate of pay that
12 is greater than the applicable minimum wage?
- 13 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
14 Class Members to take compliant meal periods?
- 15 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
16 with additional wages for missed or interrupted meal periods?
- 17 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
18 Class Members to take compliant rest periods?
- 19 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
20 with additional wages for missed rest periods?
- 21 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
22 Members upon termination or resignation all wages earned?
- 23 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
24 section 203?
- 25 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
26 Class Members with accurate wage statements?
- 27 J. Did Defendants fail to indemnify Class Members for all necessary expenditures or
28 losses incurred in direct consequence of the discharge of their duties or by obedience

1 to the directions of Defendants as required under Labor Code section 2802?

2 K. Did Defendants violate the Unfair Competition Law, Business and Professions Code
3 section 17200, *et seq.*, by their unlawful practices as alleged herein?

4 L. Are Class Members entitled to restitution of wages under Business and Professions
5 Code section 17203?

6 M. Are Class Members entitled to costs and attorneys' fees?

7 N. Are Class Members entitled to interest?

8 **C. Typicality**

9 39. The claims of Plaintiff herein alleged are typical of those claims which could be
10 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
11 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
12 damages arising out of and caused by Defendants' common course of conduct in violation of laws
13 and regulations that have the force and effect of law and statutes as alleged herein.

14 **D. Adequacy of Representation**

15 40. Plaintiff will fairly and adequately represent and protect the interest of Class
16 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
17 hour class actions.

18 **E. Superiority of Class Action**

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

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

FIRST CAUSE OF ACTION

(Failure to Pay Overtime Wages – Against All Defendants)

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

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

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

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

47. Four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7) consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours actually worked at the proper overtime rate of pay including but not limited to, requiring employees to perform pre and post shift duties while off of the clock, requiring employees to work through both rest and lunch breaks, and splitting employee shifts into two separate shifts to avoid overtime pay to the detriment of Plaintiff and Class Members.

48. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on

1 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
2 applicable IWC Wage Orders, and California law.

3 49. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
4 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
5 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
6 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

7 **SECOND CAUSE OF ACTION**

8 **(Failure to Pay Minimum Wages – Against All Defendants)**

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

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

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

16 53. For four (4) years prior to the filing of the Complaint in this Action through the
17 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
18 their regular rate of pay that is above the minimum wage including but not limited to, requiring
19 employees to perform pre and post shift duties while off of the clock, requiring employees to work
20 through both rest and lunch breaks, and splitting employee shifts into two separate shifts to avoid
21 overtime pay to the detriment of Plaintiff and Class Members.

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

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

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

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

57. 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.

58. 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.

59. 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.

60. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, 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. Moreover, at times, 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.

61. 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, at times, 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.

62. 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

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

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

6 **FOURTH CAUSE OF ACTION**

7 **(Failure to Provide Rest Periods – Against All Defendants)**

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

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

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

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

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

69. By their failure, at times, 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.

70. 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.

71. 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)

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

73. 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.

74. 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.

75. 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, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class

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

3 76. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
4 Class 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, at times, to pay all wages earned prior to termination
9 or resignation.

10 77. 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 78. 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 79. 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 80. Plaintiff realleges and incorporates by reference all of the allegations contained in
22 the preceding paragraphs as though fully set forth hereat.

23 81. 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 82. 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; and the name and address of the entity securing the services of the farm labor contractor
3 who employed Plaintiff and Class Members, among other things.

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

13 84. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
14 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
15 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
16 provided wage statements that Defendants knew were not accurate.

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

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

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

SEVENTH CAUSE OF ACTION

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

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

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

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

91. For three (3) years prior to the filing of the Complaint in this Action through the present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times, necessary expenditures or losses in direct consequence of the discharge of their duties or at the obedience to the directions of Defendants that included, without limitation: mileage and/or gas costs incurred in driving personal vehicles for work-related purposes and purchasing tools necessary to perform work duties including but not limited to tractor repair tools, gloves, and scissors.

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

93. 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 reimbursed for the herein-described losses and/or expenditures.

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

EIGHTH CAUSE OF ACTION

(Unfair Competition – Against All Defendants)

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

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

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

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

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

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1 **NINTH CAUSE OF ACTION**

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

3 100. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
4 and incorporates each by reference as though fully set forth hereat.

5 101. At all relevant times herein, Labor Code section 204, requires and required that:
6 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
7 between the 16th and 26th day of the month during which the labor was performed, and labor
8 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
9 between the 1st and 10th day of the following month.”

10 102. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
11 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
12 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
13 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
14 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
15 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
16 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

17 103. At all relevant times herein, Defendants have had a consistent policy or practice of
18 failing to pay Plaintiff and/or Class Members during their employment on a timely basis as per
19 Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other Class
20 Members are entitled to recover civil penalties for Defendants’ violations of Labor Code section
21 204, in the amount of one hundred dollars (\$100) for each Class Member for each initial violation
22 per employee, and two hundred dollars (\$200) for each Class Member for each subsequent violation
23 in connection with each payment that was made in violation of Labor Code section 204.

24 **TENTH CAUSE OF ACTION**

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

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

28 105. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person

1 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
2 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
3 penalty as follows:

4 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
5 pay period for which the employee was underpaid in addition to an amount sufficient
6 to recover underpaid wages;

7 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
8 employee for each pay period for which the employee was underpaid in addition to
9 an amount sufficient to recover underpaid wages;

10 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

11 106. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
12 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
13 causing Plaintiff and other Class Members not to: be paid overtime wages and minimum wages;
14 receive meal and rest periods or compensation in lieu thereof; be paid timely wages during their
15 employment and after their employment separation; and/or be paid out all paid time off and/or
16 vacation wages owed at the proper rate of pay.

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

22 **ELEVENTH CAUSE OF ACTION**

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

24 108. 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.

26 109. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
27 person acting either individually or as an officer, agent, or employee of another person, who pays
28 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or

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

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

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

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

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

25 111. As a direct and proximate result of the herein-described Labor Code violations,
26 pursuant to Labor Code section 1197.1, Plaintiff and other Class Members are entitled to recover
27 civil penalties for Defendants’ herein-described Labor Code violations in the amount one hundred
28 dollars (\$100) for each Class Member per pay period for the initial violation, and two hundred and

1 fifty dollars (\$250) for each Class Member per pay period for each subsequent violation.

2 **TWELFTH CAUSE OF ACTION**

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

4 112. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
5 and incorporates each by reference as though fully set forth hereat.

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

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

18 115. Plaintiff is informed and believes and based thereon alleges that Defendants, and
19 each of them, violated the Labor Code sections described herein, including, without limitation, for
20 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
21 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
22 employment and after employment separation; provide employees the opportunity to inspect
23 employment records; reimburse Class Members for costs incurred in furtherance of their work
24 duties; provide notice as required under Labor Code section 2810.5; provide the proper accrual and
25 use of paid sick leave; paying employees all owed paid time off and vacation time owed by
26 separation at the proper rate of pay; entitling Plaintiff and other Class Members to civil penalties for
27 each of these Labor Code violations in the amounts set forth in Labor Code section 2699, subdivision
28 (f).

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- 1 N. For costs of suit incurred herein; and
- 2 O. For such other and further relief as the Court deems just and proper.

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4 Dated: April 9, 2021

BIBIYAN LAW GROUP, P.C.

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6 BY: 
7 DAVID D. BIBIYAN
8 JEFFREY KLEIN
9 Attorneys for Plaintiff JUAN MEZA MENDEZ on
10 behalf of himself and all others similarly situated
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