

Jonathan M. Lebe (SBN 284605)
jon@lebelaw.com
Zachary Gershman (SBN. 328004)
zachary@lebelaw.com
LEBE LAW, APLC
777 S. Alameda Street, Second Floor
Los Angeles, CA 90021
Telephone: (213) 358-7046

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

JUN 08 2021

Sherri R. Carter, Executive Officer/Clerk of Court

Attorneys for Plaintiff Joe Angel Sedeno Jr.,
Individually and on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

JOE ANGEL SEDENO JR., individually
and on behalf of all others similarly
situated,

Plaintiff,

vs.

URGENT.LY INC.; and DOES 1-10,
inclusive,

Defendants.

Case No. 21STCV12092

Honorable Carolyn B. Kuhl – Dept. 12

PROOF OF SERVICE

Action Filed: March 30, 2021

Trial Date: None Set

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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California, I am over the age of eighteen years and not a party to the within entitled action; my business address is 777 S. Alameda Street, Los Angeles, CA 90021.

On June 8, 2021, I served the foregoing: **"FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT"** on the interested parties, by placing a true copy thereof, by the method of service specified below:

Chad D. Bernard
Chad.Bernard@jacksonlewis.com
725 South Figueroa Street
Suite 2500
Los Angeles, CA 90017

☒ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at Los Angeles, California. I am "readily familiar" with the firm's practice of collection and processing mail. Under that practice, it is deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter dates is more than one day after date of deposit for mailing in affidavit.

☐ (VIA ELECTRONIC SERVICE) Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: June 8, 2021


Zachary Gershman

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jon@lebelaw.com
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zachary@lebelaw.com
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Individually and on behalf of all others similarly situated

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URGENT.LY INC.; and DOES 1-10,
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Case No. 21STCV12092

Honorable Carolyn B. Kuhl – Dept. 12

[Filed as a matter of right pursuant to Labor Code
§ 2699.3(a)(2)(C)]

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

1. Failure to Pay Minimum Wages, (Cal. Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1199, and the IWC Wage Order);
2. Failure to Pay Overtime Wages (Cal. Labor Code §§ 510, 1194, 1198, and the IWC Wage Order);
3. Failure to Timely Pay All Earned Wages (Cal. Labor Code §§ 204, 210 and the IWC Wage Order);
4. Failure to Provide Meal Periods (Cal. Labor Code §§ 226.7, 512, and the IWC Wage Order);
5. Failure to Provide Rest Breaks (Cal. Labor Code § 226.7, and the IWC Wage Order.);
6. Failure to Pay Wages Upon Separation of Employment and Within the Required Time (Cal. Labor Code § 201, 202, 203 and the IWC Wage Order);
7. Failure to Furnish Accurate and Itemized Wage Statements (Cal. Labor Code § 226, and the IWC Wage Order);

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FAMILY LAW CLERK'S OFFICE**

JUN 08 2021

8. Failure to Reimburse All Business Expenses (Cal. Labor Code § 2802, and the IWC Wage Order); and
9. Violation of California Business Professions Code § 17200, et seq.
10. Civil Penalties Pursuant to the PAGA (Labor Code § 2698. et seq.)

DEMAND FOR JURY TRIAL

Plaintiff Joe Angel Seden0 Jr. ("Plaintiff"), individually and on behalf of all others similarly situated, alleges as follows:

NATURE OF ACTION AND INTRODUCTORY STATEMENT

1. Plaintiff is an individual who worked as a worker for Defendant Urgent.ly INC. ("Defendant Urgent.ly"), and Does 1 through 10, inclusive ("Defendants"). He brings this action to recover lost wages, reimbursement of expenses, and other relief from Defendants' willful decision to misclassify him as an independent contractor.

2. Defendants are in the business of providing roadside assistance to customers throughout California.

3. Through this action, Plaintiff is alleging that Defendants have engaged in a systematic pattern of wage and hour violations under the California Labor Code ("Labor Code"), all of which contribute to Defendants' deliberate unfair competition. Indeed, Defendants misclassified their workers in violation of *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903 and Assembly Bill 5.

4. Plaintiff is informed and believes, and thereon alleges, during the relevant time period, Defendants had a consistent policy of violating state wage and hour laws by, among other things:

- (a) Misclassifying Plaintiff and other workers as independent contractors;
- (b) Failing to pay all wages for all hours worked, including minimum and overtime wages;
- (c) Failing to timely pay all wages earned by Plaintiff and other workers;

- (d) Failing to authorize or permit rest breaks or provide compensation in lieu thereof;
- (e) Failing to provide meal periods or compensation in lieu thereof;
- (f) Willfully failing to provide accurate semi-monthly itemized wage statements;
- (g) Failing to provide mandatory paid sick leave;
- (h) Failing to reimburse all business expenses incurred by workers in direct consequence of the discharge of his or her duties.

5. Plaintiff brings this lawsuit seeking monetary relief against Defendants on behalf of himself and all others similarly to recover, among other things, unpaid wages and benefits, interest, attorney's fees, costs and expenses and penalties pursuant to Labor Code §§ 201-204, 210, 226, 226.7, 246, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198, 2800, and 2802.

6. Plaintiff, on behalf of himself and all class members, pursuant to Business and Professions Code sections 17200, *et seq*, also seeks injunctive relief and restitution for the unfair, unlawful, or fraudulent practices alleged in this Complaint.

JURISDICTION AND VENUE

7. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

8. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all cases except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

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

10. Venue is proper in this Court because, upon information and belief, Plaintiff worked for Defendants in this county, Defendants transact business in this county, and acts and omissions alleged herein took place in this county.

THE PARTIES

11. Plaintiff is a citizen of California. Plaintiff worked for Defendant from approximately January of 2021 to March of 2021. Details regarding Plaintiff's precise number of completed jobs, pay, and revenue generated for Defendant are available by reference to Defendant's records.

12. Defendants were and are, upon information and belief, a Delaware corporation doing business throughout the State of California, and at all times hereinafter mentioned, an employer as defined in and subject to the California Labor Code and Industrial Welfare Commission ("IWC") Wage Orders, whose employees are and were engaged throughout this county and the State of California.

13. The true names and capacities, whether individual, corporate, associate, or otherwise, of the Defendants sued herein as Does 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues said Defendants by such fictitious names under California Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a Doe is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employers and/or joint employers of Plaintiff and the class members.

CLASS ACTION ALLEGATIONS

15. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of himself and all other members of the general public similarly situated who were affected by Defendants' Labor Code, Business and Professions Code §§ 17200 and IWC Wage Order violations.

16. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

17. Plaintiff's proposed Class consists of and is defined as follows:

1 Class

2 All individuals who performed work for Defendants in the State of
3 California who were classified as independent contractors from four years
4 and 179 days before the date of this complaint until trial.¹

5 18. Members of the Class described above will collectively be referred to as “class
6 members.” Plaintiff reserves the right to establish other or additional subclasses, or modify any Class
7 or Subclass definition, as appropriate based on investigation, discovery and specific theories of
8 liability.

9 19. This action has been brought and may properly be maintained as a class action under
10 the California Code of Civil Procedure § 382 because there are common questions of law and fact as
11 to the Class that predominate over questions affecting only individual members including, but not
12 limited to:

- 13 a. Whether Defendants misclassified Plaintiff and class members as independent
- 14 contractors rather than as non-exempt employees;
- 15 b. Whether Defendants failed to pay at least minimum wage for all hours worked
- 16 by Plaintiff and class members;
- 17 c. Whether Defendants failed to pay overtime wages earned by Plaintiff and
- 18 class members;
- 19 d. Whether Defendants failed to timely pay all wages earned by Plaintiff and
- 20 class members;
- 21 e. Whether Defendants failed to provide Plaintiff and class members with meal
- 22 periods;
- 23 f. Whether Defendants deprived Plaintiff and class members of paid rest breaks
- 24 or required Plaintiff and class members to work through rest breaks without
- 25 compensation;

26
27 _____
28 ¹ The statute of limitations for this matter was tolled pursuant to Cal. Rules of Court, Appendix I,
Emergency Rule No. 9.

- g. Whether Defendants failed to furnish Plaintiff and class members with accurate itemized wage statements;
- h. Whether Defendants required Plaintiff and class members to use their personal cellular devices to for work-related purposes, without paying a reasonable percentage of their cell phone bills;
- i. Whether Defendants required Plaintiff and class members to use their personal automobiles or other forms of transportation and then failed to adequately reimburse Plaintiff and class members for gas mileage and wear and tear on the car or other transportation costs;
- j. Whether Defendants' conduct was willful or reckless; and
- k. Whether Defendants engaged in unfair business practices in violation of Business & Professions Code §§ 17200, *et seq.*

20. There is a well-defined community of interest in the litigation and the Class is readily ascertainable.

- (a) Numerosity: The members of the Class are so numerous that joinder of all members is impractical. Although the members of the Class are unknown to Plaintiff at this time, on information and belief, the Class is estimated to be greater than 100 individuals. The identities of the class members are readily ascertainable by inspection of Defendants' employment and payroll records.
- (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the claims (or defenses, if any) of the Class because Defendants' failure to comply with the provisions of California wage and hour laws entitled each class member to similar pay, benefits and other relief. The injuries sustained by Plaintiff are also typical of the injuries sustained by the Class because they arise out of and are caused by Defendants' common course of conduct as alleged herein.
- (c) Adequacy: Plaintiff is qualified to and will fairly and adequately represent and protect the interests of all members of the Class because it is in his best

1 interests to prosecute the claims alleged herein to obtain full compensation
2 and penalties due him and the Class. Plaintiff's attorneys, as proposed class
3 counsel, are competent and experienced in litigating large employment class
4 actions and are versed in the rules governing class action discovery,
5 certification and settlement. Plaintiff has incurred and, throughout the
6 duration of this action, will continue to incur attorneys' fees and costs that
7 have been and will be necessarily expended for the prosecution of this action
8 for the substantial benefit of each class member.

9 (d) Superiority: The nature of this action makes the use of class action
10 adjudication superior to other methods. A class action will achieve economies
11 of time, effort and expense as compared with separate lawsuits, and will avoid
12 inconsistent outcomes because the same issues can be adjudicated in the same
13 manner and at the same time for each Class. If appropriate this Court can, and
14 is empowered to, fashion methods to efficiently manage this case as a class
15 and/or collective action.

16 (e) Public Policy Considerations: Employers in the State of California and other
17 states violate employment and labor laws every day. Current employees are
18 often afraid to assert their rights out of fear of direct or indirect retaliation.
19 Former employees are fearful of bringing actions because they believe their
20 former employers might damage their future endeavors through negative
21 references and/or other means. Class actions provide the class members who
22 are not named in the complaint with a type of anonymity that allows for the
23 vindication of their rights at the same time as affording them privacy
24 protections.

25 GENERAL ALLEGATIONS

26 A. Plaintiff Satisfies the Legal Test for Employee Status

27 21. Defendant Urgent.ly is a mobile phone application-based roadside assistance
28 company that has been in business in California since 2013.

1 22. **Defendants' business.** Defendants are a roadside assistance company providing
2 customers with roadside assistance (“Urgent.ly workers”) using Defendants’ mobile phone
3 application (the “Urgent.ly App”).

4 23. The Urgent.ly workers complete roadside assistance jobs and record the number of
5 completed jobs on the Urgent.ly App.

6 24. Defendants receives information regarding the number of completed jobs from the
7 Urgent.ly workers and pay them a set rate per completed job via the Urgent.ly App.

8 25. The work that Defendants’ workers perform is the usual course of Defendants’
9 business.

10 26. The Urgent.ly workers, including Plaintiff, provide the service which Defendants sell
11 to customers throughout California.

12 27. Defendants earn money by providing its business customers with Urgent.ly workers
13 a service that is wholly dependent on Urgent.ly workers, like Plaintiff.

14 28. Defendants are not merely a platform or uninterested bystander between Urgent.ly
15 workers and the businesses to which it sells services too. Rather, Defendants perform background
16 checks on its Urgent.ly workers before allowing them to connect with businesses, and Defendants
17 handle the billing and facilitation of taxes of Urgent.ly workers.

18 29. Defendants can also terminate Urgent.ly workers right to provide temporary work to
19 customers for violating one or more of the rules which Urgent.ly imposes by contract, or with no
20 cause at all.

21 30. Urgent.ly workers lack business autonomy. Urgent.ly workers are each not engaged
22 in an independently-established business. Urgent.ly workers are dependent on Defendants to identify
23 businesses for them to work at, and they do not need to possess any particular or special skills.

24 31. By working for Defendants, Urgent.ly workers have not independently made the
25 decision to go into business for themselves. Instead, Defendants have unilaterally determined that
26 Plaintiff and Urgent.ly workers are independent contractors while precluding them from taking the
27 usual steps towards promoting and establishing an independent business.

1 32. Defendants also prohibit Plaintiff and Urgent.ly workers from setting their rates of
2 pay for their own services, and instead, Plaintiff and Urgent.ly workers agree to a set payment for a
3 service to a customer through the Urgent.ly App, presented to them by Defendants.

4 33. Defendants are responsible for paying Plaintiff and Urgent.ly workers based on the
5 rate of pay which is set for each job that an Urgent.ly worker completes.

6 34. Defendants control the terms of employment. Defendants maintain uniform policies
7 and terms of service which all Urgent.ly workers, including Plaintiff, must comply with. Once
8 Plaintiff passed Defendants' initial background checks, he was able to work for Defendants for an
9 indefinite period of time. However, Defendants could shut down Plaintiff's access to the Urgent.ly
10 App for any reason, thus preventing him from obtaining and responding to work requests.

11 35. Plaintiff and Urgent.ly workers perform work for Defendants by logging into the
12 Urgent.ly App and accepting job requests from customers which Defendants work with which are
13 visible to all Urgent.ly App users, which benefits Defendants.

14 36. Plaintiff and Urgent.ly worker's completed jobs are recorded by the Urgent.ly App,
15 and the time spent on the Urgent.ly App is not their own, but rather time spent working.

16 **B. Defendant URGENT.LY's Misclassification of Plaintiff and URGENT.LY**
17 **Workers Violates Their Rights Under California Law**

18 37. Plaintiff performed services for Defendants as a roadside assistance provider during
19 the relevant time period. During the relevant time period, Plaintiff was classified by Defendants as
20 an independent contractor.

21 38. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
22 herein, Defendants were advised by skilled lawyers, employees and other professionals who were
23 knowledgeable about California wage and hour law, employment and personnel practices and the
24 requirements of California. Defendants misclassified their workers in violation of *Dynamex*
25 *Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903 and Assembly Bill 5.

26 39. Through this action, Plaintiff alleges that Defendants have engaged in a systematic
27 pattern of wage and hour violations under the California Labor Code and IWC Wage Orders, all of
28 which contribute to Defendants' deliberate unfair competition.

1 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and class members were entitled to receive wages for all time
3 worked (including minimum and overtime wages) and that they were not receiving all wages earned
4 for work that was required to be performed. In violation of the Labor Code and IWC Wage Orders,
5 Plaintiff and class members were not paid wages (including minimum and overtime wages) for all
6 hours worked when Defendants failed to pay or underpaid Plaintiff and class members for all hours
7 worked, and failed to pay for time spent in rest breaks, among other things.

8 41. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and class members were entitled to receive all rest breaks or
10 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay when a
11 rest break was missed, and were entitled to payment of wages for time spent when rest breaks were
12 taken. In violation of the Labor Code and IWC Wage Orders, Plaintiff and class members did not
13 receive paid rest breaks or payment of one (1) additional hour of pay at Plaintiff and class members'
14 regular rate of pay when a rest break was missed.

15 42. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and class members were entitled to receive all meal periods or
17 payment of one (1) additional hour of pay at Plaintiff's and class members' regular rate of pay when
18 they did not receive a timely, uninterrupted meal period. In violation of the Labor Code and IWC
19 Wage Orders, Plaintiff and class members did not receive all meal periods or payment of one (1)
20 additional hour of pay at Plaintiff's and class members' regular rate of pay when they did not receive
21 a timely, uninterrupted meal period.

22 43. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to timely payment of wages during
24 their employment. In violation of the California Labor Code, Plaintiff and class members did not
25 receive payment of all wages within permissible time periods.

26 44. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and class members were entitled to receive complete and accurate
28 wage statements in accordance with California law. In violation of the California Labor Code,

1 Plaintiff and class members were not furnished with complete and accurate wage statements showing
2 their total hours worked, number of hours worked at each hourly rate and gross and net wages, among
3 other things.

4 45. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and other employees were entitled to sick leave, and notice on their
6 wage statements or other separate written statements that listed the balance of paid sick leave that
7 they should have been accruing. In violation of the California Labor Code, Plaintiff and other
8 employees did not receive sick leave and notice on their wage statements or other separate written
9 statements that listed the balance of paid sick leave that they should have been accruing.

10 46. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and class members were entitled to reimbursement for necessary
12 expenditures incurred in connection with the performance and execution of their job duties. In
13 violation of the California Labor Code, Plaintiff and class members did not receive adequate
14 reimbursement for necessary business expenses, including but not limited to reimbursement for use
15 of their personal cell phones and personal automobiles or other transportation expenses.

16 47. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
17 herein, Defendants knew or should have known that it had a duty to compensate Plaintiff and class
18 members, and that Defendants had the financial ability to pay such compensation but willfully,
19 knowingly and intentionally failed to do so, all in order to increase Defendants' profits.

20 48. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief against
21 Defendants on behalf of himself and all class members to recover, among other things, unpaid wages,
22 interest, attorneys' fees, penalties, reimbursements, costs and expenses.

23 **FIRST CAUSE OF ACTION**

24 **FAILURE TO PAY MINIMUM WAGES**

25 **(Violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197; Violation of IWC Wage Order)**

26 49. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
27 though fully set forth herein.
28

50. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

51. Defendants paid on a per job basis and therefore did not pay the minimum wage for all non-productive time. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 4th 314, 325.

52. During the relevant time period, failed to pay Plaintiff and class members all minimum wages owed when Defendants did not pay for all hours worked, such as for compensable travel time incurred when Plaintiff and class members traveled from one workplace to another in the same day, among other reasons. Plaintiff and class members were not being paid at least minimum wage for their work.

53. During the relevant time period, Defendants regularly failed to pay at least minimum wage to Plaintiff and class members for all hours worked pursuant to Labor Code §§ 1194 and 1197.

54. Defendants' failure to pay Plaintiff and class members the minimum wage as required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs and attorney's fees.

55. Pursuant to Labor Code § 1194.2, Plaintiff and class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order)

56. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

57. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half (1½) or two (2) times the person's regular rate of pay, depending on the number of hours or days worked by the person on a daily or weekly basis.

1 58. Specifically, the applicable IWC Wage Orders provide that Defendants are and
2 were required to pay overtime compensation to Plaintiff and Class Members at the rate of one and
3 one-half times (1½) their regular rate of pay when working and for all hours worked in excess of
4 eight (8) hours in a day or more than forty (40) hours in a workweek and for the first eight (8)
5 hours of work on the seventh day of work in a workweek.

6 59. The applicable IWC Wage Orders further provide that Defendants are and were
7 required to pay overtime compensation to Plaintiff and Class Members at a rate of two times their
8 regular rate of pay when working and for all hours worked in excess of twelve (12) hours in a day
9 or in excess of eight (8) hours on the seventh day of work in a workweek.

10 60. California Labor Code § 510 codifies the right to overtime compensation at one and
11 one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in a day
12 or forty (40) hours in a week and for the first eight (8) hours worked on the seventh consecutive
13 day of work, and overtime compensation at twice the regular hourly rate for hours worked in excess
14 of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in
15 a workweek.

16 61. Labor Code § 510 and the applicable IWC Wage Orders provide that employment
17 of more than six days in a workweek is only permissible if the employer pays proper overtime
18 compensation as set forth herein.

19 62. Plaintiff and Class Members were non-exempt employees entitled to the protections
20 of California Labor Code §§ 510 and 1194.

21 63. During the relevant time period, Defendants failed to pay Plaintiff and Class
22 Members overtime wages for all overtime hours worked when Plaintiff and Class Members
23 worked in excess of eight (8) hours in a day, forty (40) hours in a week and/or for a seventh
24 consecutive day of work in a workweek, or when Plaintiff and Class Members worked in excess
25 of twelve (12) hours in a day and/or in excess of eight (8) hours on the seventh day of work in a
26 work week.

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1 64. In violation of state law, Defendants knowingly and willfully refused to perform
2 their obligations and compensate Plaintiff and Class Members for all wages earned and all hours
3 worked.

4 65. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of
5 overtime and double time compensation, as required by California law, violates the provisions of
6 Labor Code §§ 510 and 1198, and is therefore unlawful.

7 66. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to recover
8 their unpaid overtime and double time compensation as well as interest, costs, and attorneys' fees.

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO TIMELY PAY ALL EARNED WAGES**

11 **(Violation of Labor Code §§ 204 and 210; Violation of IWC Wage Order)**

12 67. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
13 though fully set forth herein.

14 68. Labor Code § 204 provides that all wages earned by an employee are due and
15 payable twice during each calendar month.

16 69. Defendants failed to timely pay Class Members all of their earned wages as required
17 by Labor Code Section 204.

18 70. After performing jobs, Plaintiff and Class Members were often not paid for those jobs
19 at all.

20 71. Class Members have been deprived of their rightfully earned wages as a direct and
21 proximate result of Defendants' failure to pay said compensation. Class Members are entitled to
22 recover such amounts, plus interest thereon, attorney's fees and costs.

23 72. In addition, Class Members are entitled to penalties pursuant to Labor Code § 210 as
24 follows: (1) for Defendants' initial violation, \$100 for each failure to pay each Class Member; and
25 (2) for each of Defendants' subsequent violations, or any willful or intentional violation, \$200 for
26 each failure to pay each Class Member, plus 25 percent of the amount unlawfully held.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 **(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order)**

4 73. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
5 though fully set forth herein.

6 74. Labor Code § 226.7 provides that no employer shall require an employee to work
7 during any meal period mandated by the IWC Wage Orders.

8 75. Section 11 of the applicable IWC Wage Order states, “[n]o employer shall employ
9 any person for a work period of more than five (5) hours without a meal period of not less than 30
10 minutes, except that when a work period of not more than six (6) hours will complete the day’s
11 work the meal period may be waived by mutual consent of the employer and the employee.”

12 76. Labor Code § 512(a) provides that an employer may not require, cause, or permit
13 an employee to work for a period of more than five (5) hours per day without providing the
14 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the
15 total work period per day of the employee is not more than six (6) hours, the meal period may be
16 waived by mutual consent of both the employer and the employee.

17 77. Labor Code § 512(a) also provides that an employer may not employ an employee
18 for a work period of more than ten (10) hours per day without providing the employee with a second
19 meal period of not less than thirty (30) minutes, except that if the total hours worked is no more
20 than twelve (12) hours, the second meal period may be waived by mutual consent of the employer
21 and the employee only if the first meal period was not waived.

22 78. During the relevant time period, Plaintiff and Class Members did not receive
23 compliant meal periods for working more than five (5) and/or ten (10) hours per day because their
24 meal periods were missed, late, short, interrupted, and/or they were not permitted to take a second
25 meal period.

26 79. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order requires
27 an employer to pay an employee one (1) additional hour of pay at the employee’s regular rate of
28 compensation for each workday that a compliant meal period is not provided.

80. At all relevant times, Defendants failed to pay Plaintiff and Class Members meal period premiums for missed, late, short, and/or interrupted meal periods pursuant to Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order.

FIFTH CAUSE OF ACTION

(Violation of Labor Code § 226.7; Violation of IWC Wage Order)

1 89. At all relevant times, Defendants failed to pay Plaintiff and class members the full
2 rest period premium for missed or interrupted rest periods pursuant to Labor Code § 226.7(b) and
3 section 12 of the applicable IWC Wage Order.

4 90. As a result of Defendants' failure to pay Plaintiff and class members an additional
5 hour of pay for each day a rest period was not provided, Plaintiff and class members suffered and
6 continue to suffer a loss of wages and compensation.

7 **SIXTH CAUSE OF ACTION**

8 **FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**

9 **(Violation of Labor Code § 226; Violation of IWC Wage Order)**

10 91. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as
11 though fully set forth herein.

12 92. California Labor Code § 226(a) requires employers to furnish their employees with
13 an accurate itemized writing that shows gross wages earned, total hours worked, all deductions, net
14 wages earned, the inclusive dates of the period for which the employee is paid, the name of the
15 employee and the portion of his or her social security number as required by law, the name and
16 address of the legal entity that is the employer and all applicable hourly rates in effect during the pay
17 period and the corresponding number of hours worked at each hourly rate by the employee.

18 93. In addition, pursuant to Labor Code § 226.2(a)(2), the itemized statements of
19 employees paid on a piece-rate basis shall also state (1) the total hours of compensable rest and
20 recovery periods, the rate of compensation, and the gross wages paid for those periods during the
21 pay period; and (2) the total hours of other nonproductive time, the rate of compensation, and the
22 gross wages paid for that time during the pay period.

23 94. Defendants have intentionally and willfully failed to provide Plaintiff and class
24 members with complete and accurate wage statements. The deficiencies include, among other things,
25 the failure to list the gross wages earned, net wages earned, hours worked, and all applicable hourly
26 rates in effect during the pay period.

27 95. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff and
28 class members have suffered injury and damage to their statutorily protected rights. Specifically,

1 Plaintiff and class members have been injured by Defendants' intentional violation of California
2 Labor Code § 226(a) because they were denied both their legal right to receive, and their protected
3 interest in receiving, accurate itemized wage statements under California Labor Code § 226(a). In
4 addition, because Defendants failed to provide the accurate rates of pay on wage statements,
5 Defendants have prevented Plaintiff and class members from determining if all hours worked were
6 paid at the appropriate rate and the extent of the underpayment. Plaintiff has had to file this lawsuit
7 in order to analyze whether in fact Plaintiff was paid correctly and the extent of the underpayment,
8 thereby causing Plaintiff to incur expenses and lost time. Plaintiff would not have had to engage in
9 these efforts and incur these costs had Defendants provided the accurate rate of pay. This has also
10 delayed Plaintiff's ability to demand and recover the underpayment of wages from Defendants.

11 96. California Labor Code § 226(a) requires an employer to pay the greater of all actual
12 damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred, and one
13 hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus attorney's
14 fees and costs, to each employee who was injured by the employer's failure to comply with California
15 Labor Code § 226(a).

16 97. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff and
17 class members from knowing, understanding and disputing the wages paid to them, and resulted in
18 an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and
19 intentional failure to comply with California Labor Code § 226(a), Plaintiff and class members have
20 suffered an injury, the exact amount of damages and/or penalties is all in an amount to be shown
21 according to proof at trial.

22 98. Plaintiff and class members are also entitled to injunctive relief under California
23 Labor Code § 226(g) compelling Defendants to comply with California Labor Code § 226 and seek
24 the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

25 **SEVENTH CAUSE OF ACTION**

26 **FAILURE TO REIMBURSE ALL BUSINESS EXPENSES**

27 **(Violation of Labor Code §§ 2800, 2802; Violation of IWC Wage Order)**

28 99. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as

1 though fully set forth herein.

2 100. Labor Code § 2800 states that an employer shall in all cases indemnify his employee
3 for losses.

4 101. Labor Code § 2802 requires employers to indemnify their employees for all
5 necessary expenditures or losses incurred by employees in direct consequence of the discharge of
6 their duties.

7 102. Section 9 of the applicable IWC Wage Order states that when tools or equipment
8 are required by the employer or are necessary to the performance of a job, such tools and equipment
9 shall be provided and maintained by the employer.

10 103. During the relevant time period, Defendants required Plaintiff and class members to
11 download an app onto their personal cellular devices in order to view, accept and process jobs, click
12 in and out of work, and to view their pay statement, without paying Plaintiff and class members for
13 a reasonable percentage of their cell phone bills.

14 104. During the relevant time period, Defendants required Plaintiff and class members to
15 use their own automobiles or other transportation to travel from one worksite to another during the
16 same day, without properly compensating them for gas mileage and wear and tear on their vehicles,
17 or other transportation costs.

18 105. During the relevant time period, Defendants required Plaintiff and class members to
19 possess insurance coverage, including Commercial General Liability, Commercial Auto Liability,
20 Garage Keepers/On Hook/Cargo, etc. depending on the types of services Urgent.ly workers
21 provided, without receiving any reimbursement.

22 106. In violation of Labor Code §§ 2800 and 2802, Defendants failed to indemnify
23 Plaintiff and class members for these expenses.

24 107. In committing the violations as herein alleged, Defendants have intentionally and
25 willfully failed to fully reimburse Plaintiff and class members for necessary business-related costs
26 and expenses. As a direct result, Plaintiff and class members have suffered and continue to suffer
27 substantial losses relating to the use and enjoyment of such compensation, wages, expenses, and
28 attorney's fees.

EIGHTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, *ET SEQ.*

108. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as though fully set forth herein.

109. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of unfair competition, which includes any "unlawful, unfair or fraudulent business act or practice"

110. A violation of California Business and Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. In the instant case, Defendants' policies and practices have violated state law causing Plaintiff and class members to suffer and continue to suffer injuries in fact. As alleged herein, Defendants systematically engaged in unlawful conduct in violation of the California Labor Code and IWC Wage Orders, such as failing to pay minimum wages, failing to pay overtime wages, failing to timely pay all earned wages, failing to authorize or permit paid rest breaks, failing to provide meal periods, failing to pay all wages due and owing upon separation of employment and in a timely manner, failing to furnish accurate wage statements, and failing to reimburse business expenses, all in order to decrease their costs of doing business and increase their profits.

111. At all times relevant herein, Defendants intentionally avoided paying Plaintiff and class members wages and monies, thereby creating for Defendants an artificially lower cost of doing business in order to undercut their competitors and establish and/or gain a greater foothold in the marketplace.

112. At the time Plaintiff and class members were hired, Defendants knowingly, intentionally and wrongfully misrepresented to each of them their conformance with the California Labor Code and IWC Wage Orders including proper payments required by law.

113. At all relevant times herein, Defendants held themselves out to Plaintiff and class members as being knowledgeable concerning the labor laws of California.

114. At all times relevant herein, Plaintiff and class members relied on and believed Defendants' representations concerning their conformance with California's wage and hour laws all to their detriment.

115. As a result of Defendants' intentional, willful, purposeful and wrongful misrepresentation of their conformance with the California Labor Code and IWC Wage Orders, Plaintiff and class members suffered a loss of wages and monies, all in an amount to be shown according to proof at trial. By violating the foregoing statutes and regulations as herein alleged, Defendants' acts constitute unfair and unlawful business practices under California Business and Professions Code §§ 17200, *et seq.*

116. Defendants' violations of the California Labor Code and IWC Wage Orders and their scheme to lower their payroll costs as alleged herein, constitute unlawful business practices because they were done in a systematic manner over a period of time to the detriment of Plaintiff and class members.

117. As a result of the unfair business practices of Defendants, as alleged herein, Plaintiff and class members are entitled to injunctive relief, disgorgement and restitution in an amount to be shown according to proof at trial.

118. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, class members and to the general public. Based on Defendants' conduct as alleged herein, Plaintiff and class members are entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

NINTH CAUSE OF ACTION

CIVIL PENALTIES PURSUANT TO THE PAGA

(Violation of Labor Code §§ 2698 *Et. Seq.*)

119. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs, as though fully set forth herein.

120. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an

1 aggrieved employee on behalf of himself and other current or former employees pursuant to the
2 procedures specified in Labor Code § 2699.3.

3 121. Defendants' conduct violates numerous Labor Code sections including, but not
4 limited to, the following:

5 122. Defendants' conduct violates numerous Labor Code sections including, but not
6 limited to, the following:

7 (a) Violation of Labor Code § 226.8 for the willful misclassification of Plaintiff
8 and other aggrieved employees;

9 (b) Violation of Labor Code §§ 201, 202, 203, 204, 510, 558, 1194, 1197 and
10 1198 for failure to timely pay all earned wages (including minimum wages and overtime
11 wages) owed to Plaintiffs and other aggrieved employees during employment and upon
12 separation of employment as herein alleged;

13 (c) Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods
14 to Plaintiffs and other aggrieved employees and failure to pay premium wages for missed
15 meal periods as herein alleged;

16 (d) Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiffs
17 and other aggrieved employees and failure to pay premium wages for missed rest periods
18 as herein alleged;

19 (e) Violation of Labor Code § 226 for failure to provide accurate itemized wage
20 statements to Plaintiffs and other aggrieved employees as herein alleged;

21 (f) Violation of Labor Code §§ 2800 and 2802 for failure to reimburse all
22 business expenses; and

23 (g) Violation of Labor Code § 246 for the willful failure to provide mandatory
24 paid sick leave to Plaintiff and other aggrieved employees.

25 123. Plaintiff is an "aggrieved employee" because he was employed by the alleged
26 violator and had one or more of the alleged violations committed against them, and therefore is
27 properly suited to represent the interests of all other aggrieved employees.
28

124. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under PAGA.

125. PAGA imposes a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

126. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

127. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of all others similarly situated, prays for judgment against Defendants as follows:

1. For certification of the proposed Class and Waiting Time Subclass and any other appropriate subclasses under California Code of Civil Procedure § 382;

2. For appointment of Joe Angel Sedeno Jr. as the class representative;

3. For appointment of Lebe Law, APLC as class counsel for all purposes;

4. For general damages;

5. For special damages;

6. For liquidated damages pursuant to California Labor Code § 1194.2;

7. For statutory penalties to the extent permitted by law, including those pursuant to the California Labor Code and IWC Wage Orders;

8. For injunctive relief as provided by the California Labor Code and California Business and Professions Code §§ 17200, *et seq.*;

9. For restitution as provided by California Business and Professions Code §§ 17200, *et seq.*;

1 10. For an order requiring Defendants to restore and disgorge all funds to each employee
2 acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent
3 and, therefore, constituting unfair competition under California Business and Professions Code §§
4 17200, *et seq.*;

5 11. For an award of damages in the amount of unpaid compensation including, but not
6 limited to, unpaid wages, benefits and penalties according to proof, including interest thereon;

7 12. For pre-judgment interest;

8 13. For civil penalties;

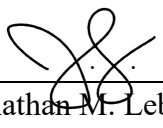
9 14. For reasonable attorney's fees and costs of suit to the extent permitted by law,
10 including pursuant to California Code of Civil Procedure § 1021.5 and California Labor Code
11 §§ 226(e), 1194 and 2802(c); and

12 15. For such other relief as the Court deems just and proper.

13 Dated: June 8, 2021

LEBE LAW, APLC

14
15 By: _____


Jonathan M. Lebe

Attorney for Plaintiff Joe Angel Sedeno Jr.

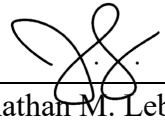
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18
19 **DEMAND FOR JURY TRIAL**

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

21
22 Dated: June 8, 2021

LEBE LAW, APLC

23
24 By: _____


Jonathan M. Lebe

Attorney for Plaintiff Joe Angel Sedeno Jr.