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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TULARE**

RONALD ACKER, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

RITCHIE BROS AUCTIONEERS
AMERICA INC., an unknown business entity;
RITCHIE BROS AUCTION, an unknown
business entity; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: VCU283076

Honorable David Mathias
Department 1

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES AND
ENFORCEMENT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE § 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);

BY FAX

FILED
TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION

JUL 23 2021

STEPHANIE CAMERON, CLERK
BY: NICOLE RENTERIA

- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (10) Violation of California Business & Professions Code §§ 17200, et seq.
- (11) Violation of California Labor Code § 2698, et seq. (California Labor Code, Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff RONALD ACKER (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The “amount in controversy” for the named Plaintiff, including but not limited to claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys’ fees, is less than seventy-five thousand dollars (\$75,000).

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendants because, upon information and belief, Defendants are citizens of California, 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 California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of Tulare. The majority of acts and omissions alleged herein relating to Plaintiff and the other class members took place in the State of California, including the County of Tulare.

PARTIES

5. Plaintiff RONALD ACKER is an individual residing in the State of California,
County of Tulare.

6. Defendant RITCHIE BROS AUCTIONEERS AMERICA INC., at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of Tulare.

7. Defendant RITCHIE BROS AUCTION, at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of Tulare.

8. At all relevant times, Defendant RITCHIE BROS AUCTIONEERS AMERICA INC. and Defendant RITCHIE BROS AUCTION were the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

9. At all times herein relevant, Defendants RITCHIE BROS AUCTIONEERS AMERICA INC., RITCHIE BROS AUCTION, and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

10. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sue

1 said defendants by such fictitious names. Plaintiff is informed and believes, and based on that
2 information and belief alleges, that each of the defendants designated as a DOE is legally
3 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
4 the injuries and damages to Plaintiff and the other class members as alleged in this Complaint.
5 Plaintiff will seek leave of court to amend this Complaint to show the true names and
6 capacities when the same have been ascertained.

7 11. Defendant RITCHIE BROS AUCTIONEERS AMERICA INC., RITCHIE BROS
8 AUCTION, and DOES 1 through 100 will hereinafter collectively be referred to as
9 “Defendants.”

10 12. Plaintiff further alleges that Defendants directly or indirectly controlled or
11 affected the working conditions, wages, working hours, and conditions of employment of
12 Plaintiff and the other class members so as to make each of said Defendants employers liable
13 under the statutory provisions set forth herein.

14 **CLASS ACTION ALLEGATIONS**

15 13. Plaintiff bring this action on his own behalf and on behalf of all other members
16 of the general public similarly situated, and, thus, seeks class certification under California
17 Code of Civil Procedure section 382.

18 14. The proposed class is defined as follows:

19 All current and former hourly-paid or non-exempt employees who worked for
20 any of the Defendants within the State of California at any time during the
21 period from June 4, 2016 to final judgment and who reside in California.

22 15. Plaintiff reserves the right to establish subclasses as appropriate.

23 16. The class is ascertainable and there is a well-defined community of interest in
24 the litigation:

25 a. Numerosity: The class members are so numerous that joinder of all class
26 members is impracticable. The membership of the entire class is
27 unknown to Plaintiff at this time; however, the class is estimated to be
28 greater than fifty (50) individuals and the identity of such membership is

1 readily ascertainable by inspection of Defendants' employment records.

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- 4 b. Typicality: Plaintiff's claims are typical of all other class members' as
5 demonstrated herein. Plaintiff will fairly and adequately protect the
6 interests of the other class members with whom he has a well-defined
7 community of interest.
- 8 c. Adequacy: Plaintiff will fairly and adequately protect the interests of
9 each class member, with whom he has a well-defined community of
10 interest and typicality of claims, as demonstrated herein. Plaintiff has no
11 interest that is antagonistic to the other class members. Plaintiff's
12 attorneys, the proposed class counsel, are versed in the rules governing
13 class action discovery, certification, and settlement. Plaintiff has
14 incurred, and during the pendency of this action will continue to incur,
15 costs and attorneys' fees, that have been, are, and will be necessarily
16 expended for the prosecution of this action for the substantial benefit of
17 each class member.
- 18 d. Superiority: A class action is superior to other available methods for the
19 fair and efficient adjudication of this litigation because individual joinder
20 of all class members is impractical.
- 21 e. Public Policy Considerations: Certification of this lawsuit as a class
22 action will advance public policy objectives. Employers of this great
23 state violate employment and labor laws every day. Current employees
24 are often afraid to assert their rights out of fear of direct or indirect
25 retaliation. However, class actions provide the class members who are
26 not named in the complaint anonymity that allows for the vindication of
27 their rights.

28 17. There are common questions of law and fact as to the class members that

predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

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- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
- b. Whether Defendants' had a corporate policy and practice of failing to pay their hourly-paid or non-exempt employees within the State of California for all hours worked and missed (short, late, interrupted, and/or missed altogether) meal periods and rest breaks in violation of California law;
- c. Whether Defendants required Plaintiff and the other class members to work over eight (8) hours per day and/or over forty (40) hours per week and/or over six (6) consecutive days per workweek and failed to pay the legally required overtime compensation to Plaintiff and the other class members;
- d. Whether Defendants failed to properly calculate the regular rate of pay, including, *inter alia*, by failing to include earned commissions, non-discretionary bonuses, monetary and non-monetary incentives, non-discretionary production and/or performance pay, and/or shift differentials in the calculation of the regular rate of pay used to calculate the overtime rate for the payment of overtime wages where Plaintiff and the other class members earned commissions, non-discretionary bonuses, monetary and non-monetary incentives, non-discretionary production and/or performance pay, and/or shift differentials and overtime wages in the same pay period;
- e. Whether Defendants deprived Plaintiff and the other class members of meal and/or rest periods or required Plaintiff and the other class members to work during meal and/or rest periods without compensation;

- 1 f. Whether Defendants failed to pay minimum wages to Plaintiff and the
2 other class members for all hours worked;
- 3 ///
- 4 g. Whether Defendants failed to pay all wages due to Plaintiff and the other
5 class members within the required time upon their discharge or
6 resignation;
- 7 h. Whether Defendants failed to timely pay all wages due to Plaintiff and
8 the other class members during their employment;
- 9 i. Whether Defendants complied with wage reporting as required by the
10 California Labor Code; including, *inter alia*, section 226;
- 11 j. Whether Defendants kept complete and accurate payroll records as
12 required by the California Labor Code, including, *inter alia*, section
13 1174(d);
- 14 k. Whether Defendants failed to reimburse Plaintiff and the other class
15 members for necessary business-related expenses and costs;
- 16 l. Whether Defendants' conduct was willful or reckless;
- 17 m. Whether Defendants engaged in unfair business practices in violation of
18 California Business & Professions Code section 17200, et seq.;
- 19 n. The appropriate amount of damages, restitution, and/or monetary
20 penalties resulting from Defendants' violation of California law; and
- 21 o. Whether Plaintiff and the other class members are entitled to
22 compensatory damages pursuant to the California Labor Code.

23 **PAGA ALLEGATIONS**

24 18. At all times herein set forth, PAGA was applicable to Plaintiff's employment by
25 Defendants.

26 19. At all times herein set forth, PAGA provides that any provision of law under the
27 California Labor Code that provides for a civil penalty, including unpaid wages and premium
28 wages, to be assessed and collected by the LWDA for violations of the California Labor Code

1 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
2 on behalf of himself and other current or former employees pursuant to procedures outlined in
3 California Labor Code section 2699.3.

4 20. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved
5 employee,” who is any person that was employed by the alleged violator and against whom
6 one or more of the alleged violations was committed.

7 21. Plaintiff was employed by Defendants and the alleged violations were
8 committed against him during his time of employment and he is, therefore, an aggrieved
9 employee. Plaintiff and the other employees are “aggrieved employees” as defined by
10 California Labor Code section 2699(c) in that they are current or former employees of
11 Defendants, and one or more of the alleged violations were committed against them.

12 22. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
13 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
14 following requirements have been met:

- 15 a. The aggrieved employee shall give written notice by certified mail
16 (hereinafter “Employee's Notice”) to the LWDA and the employer of the
17 specific provisions of the California Labor Code alleged to have been
18 violated, including the facts and theories to support the alleged
19 violations.
- 20 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
21 employer and the aggrieved employer by certified mail that it does not
22 intend to investigate the alleged violation within thirty (30) calendar
23 days of the postmark date of the Employee’s Notice. Upon receipt of the
24 LWDA Notice, or if the LWDA Notice is not provided within thirty-
25 three (33) calendar days of the postmark date of the Employee’s Notice,
26 the aggrieved employee may commence a civil action pursuant to
27 California Labor Code section 2699 to recover civil penalties in addition
28 to any other penalties to which the employee may be entitled.

23. On March 3, 2021, Plaintiff provided written notice by certified mail to the LWDA and to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Therefore, the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties, including unpaid wages and premium wages per California Labor Code section 558 against Defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 218, 226(a), 226.3, 226.7, 510, 512(a), 1174(d), 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 have been satisfied.

GENERAL ALLEGATIONS

24. At all relevant times set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California, including the County of Tulare.

25. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-exempt employee, from approximately September 2012 to approximately January 2019, in the State of California, County of Tulare.

26. Defendants hired Plaintiff and the other class members, classified them as hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and missed, short, late, or interrupted meal periods and/or rest breaks.

27. Defendants had the authority to hire and terminate Plaintiff and the other class members, to set work rules and conditions governing Plaintiff's and the other class members' employment, and to supervise their daily employment activities.

28. Defendants exercised sufficient authority over the terms and conditions of Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff and the other class members.

29. Defendants directly hired and paid wages and benefits to Plaintiff and the other class members.

30. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

1 31. Plaintiff and the other class members worked over eight (8) hours in a day,
2 and/or forty (40) hours in a week, and/or over six (6) consecutive days per workweek during
3 their employment with Defendants.

4 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
5 engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt
6 employees within the State of California. This pattern and practice involved, *inter alia*, failing
7 to pay them for all hours worked and for missed, short, late, and/or interrupted meal periods
8 and rest breaks in violation of California law.

9 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 knew or should have known that Plaintiff and the other class members were entitled to receive
11 certain wages for overtime compensation and that they were not receiving accurate overtime
12 compensation for all overtime hours worked.

13 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
14 failed to provide Plaintiff and the other class members all required rest and meal periods during
15 the relevant time period as required under the Industrial Welfare Commission Wage Orders
16 and thus they are entitled to any and all applicable premium wages. Defendants' failure
17 included, *inter alia*, failing to provide uninterrupted ten (10) minute rest periods and timely,
18 uninterrupted thirty (30) minute meal periods to Plaintiff and the other class members. Plaintiff
19 and the other class members were required to perform work during meal periods and rest periods,
20 and Defendant incentivized Plaintiff and the other class members to forego statutorily required
21 meal periods and rest periods.

22 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 failed to relieve Plaintiff and the other class members of all duties, failed to relinquish control
24 over Plaintiff and the other class members' activities, failed to permit Plaintiff and the other
25 class members a reasonable opportunity to take, and impeded or discouraged them from taking
26 thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work
27 for shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted
28 meal breaks no later than their tenth hour of work for shifts lasting more than ten (10) hours.

1 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and the other class members were entitled to receive
3 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
4 member's regular rate of pay when a meal period was missed, short, late, or interrupted, and
5 they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's and
6 the other class member's regular rate of pay when a meal period was missed short, late, or
7 interrupted.

8 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knew or should have known that Plaintiff and the other class members were entitled to receive
10 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
11 member's regular rate of pay when a rest period was missed short, late, or interrupted, and they
12 did not receive all rest periods or payment of one additional hour of pay at Plaintiff's and the
13 other class members' regular rate of pay when a rest period was missed short, late, or
14 interrupted.

15 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 knew or should have known that Plaintiff and the other class members were entitled to receive
17 at least minimum wages for compensation and that they were not receiving at least minimum
18 wages for all hours worked.

19 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knew or should have known that Plaintiff and the other class members were entitled to receive
21 all wages owed to them upon discharge or resignation, including earned but unpaid overtime
22 wages, minimum wages and meal and rest period premiums, and they did not, in fact, receive
23 all such wages owed to them at the time of their discharge or resignation.

24 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 knew or should have known that Plaintiff and the other class members were entitled to receive
26 all wages owed to them during their employment. Plaintiff and the other class members did
27 not receive payment of all wages, including overtime and minimum wages and meal and rest
28 period premiums, within any time permissible under California Labor Code section 204.

1 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and the other class members were entitled to receive
3 complete and accurate wage statements in accordance with California law, but, in fact, they did
4 not receive complete and accurate wage statements from Defendants. The deficiencies
5 included, *inter alia*, the failure to include the actual total number of hours worked by Plaintiff
6 and the other class members, including work to be performed off-the-clock.

7 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that Defendants had to keep complete and accurate payroll records
9 for Plaintiff and the other class members in accordance with California law, but, in fact, did
10 not keep complete and accurate payroll records.

11 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 knew or should have known that Plaintiff and the other class members were entitled to
13 reimbursement for necessary business-related expenses.

14 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knew or should have known that they had a duty to compensate Plaintiff and the other class
16 members pursuant to California law, and that Defendants had the financial ability to pay such
17 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
18 represented to Plaintiff and the other class members that they were properly denied wages, all
19 in order to increase Defendants' profits.

20 45. During the relevant time period, Defendants failed to pay overtime wages to
21 Plaintiff and the other class members for all overtime hours worked. Plaintiff and the other
22 class members did not receive overtime compensation at one-and-one half times the regular
23 rate of pay for all hours spent performed job duties in excess of eight (8) hours per day and/or
24 forty (40) hours per week, and/or for the first eight (8) hours worked on the seventh day of
25 work in a workweek.

26 46. During the time period Defendants employed Plaintiff, Defendants failed to
27 properly calculate the regular rate of pay, including, *inter alia*, failing to include non-
28 discretionary bonuses, commissions, monetary and non-monetary incentives, production pay,

1 performance pay, and/or shift differentials in the calculation of the regular rate of pay used to
2 calculate the overtime rate for the payment of overtime wages where Plaintiff and the other class
3 members earned commissions, non-discretionary bonuses, monetary and non-monetary
4 incentives, non-discretionary production and/or performance pay, and/or shift differentials and
5 overtime wages in the same pay period.

6 47. During the relevant time period, Defendants failed to provide all requisite
7 uninterrupted meal and rest periods to Plaintiff and the other class members.

8 48. During the relevant time period, Defendants failed to pay Plaintiff and the other
9 class members at least minimum wages for all hours worked.

10 49. During the relevant time period, Defendants failed to pay Plaintiff and the other
11 class members all wages owed to them upon discharge or resignation.

12 50. During the relevant time period, Defendants failed to pay Plaintiff and the other
13 class members all wages within any time permissible under California law, including, *inter*
14 *alia*, California Labor Code section 204.

15 51. During the relevant time period, Defendants failed to provide complete or
16 accurate wage statements to Plaintiff and the other class members.

17 52. During the relevant time period, Defendants failed to keep complete or accurate
18 payroll records for Plaintiff and the other class members.

19 53. During the relevant time period, Defendants failed to reimburse Plaintiff and the
20 other class members for all necessary business-related expenses and costs.

21 54. During the relevant time period, Defendants failed to properly compensate
22 Plaintiff and the other class members pursuant to California law in order to increase
23 Defendants' profits.

24 55. California Labor Code section 218 states that nothing in Article 1 of the Labor
25 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty
26 due to him [or her] under this article."

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4 **FIRST CAUSE OF ACTION**

5 **(Violation of California Labor Code §§ 510 and 1198)**

6 **(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,**

7 **RITCHIE BROS AUCTION, and DOES 1 through 100)**

8 56. Plaintiff incorporates by reference the allegations contained in Paragraphs 1
9 through 55, and each and every part thereof with the same force and effect as though fully set
10 forth herein.

11 57. California Labor Code section 1198 and the applicable Industrial Welfare
12 Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without
13 compensating them at a rate of pay either time-and-one-half or two-times that person’s regular
14 rate of pay, depending on the number of hours worked by the person on a daily or weekly
15 basis.

16 58. Specifically, the applicable IWC Wage Order provides that Defendants are and
17 were required to pay Plaintiff and the other class members employed by Defendants, and
18 working more than eight (8) hours in a day, more than forty (40) hours in a workweek, and/or
19 over six (6) consecutive days per workweek, at the rate of time-and-one-half for all hours
20 worked in excess of eight (8) hours in a day and up to and including twelve (12) hours, more
21 than forty (40) hours in a week, or for the first eight (8) hours on the seventh day of work in a
22 workweek.

23 59. The applicable IWC Wage Order further provides that Defendants are and were
24 required to pay Plaintiff and the other class members overtime compensation at a rate of two
25 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

26 60. California Labor Code section 510 codifies the right to overtime compensation
27 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
28 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day

1 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
2 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
3 of work.

4 61. During the relevant time period, Plaintiff and the other class members worked in
5 excess of eight (8) hours in a day, forty (40) hours in a week, and/or over six (6) consecutive
6 days per workweek.

7 62. During the relevant time period, Defendants intentionally and willfully failed to
8 pay overtime wages owed to Plaintiff and the other class members, including failing to
9 properly calculate the regular rate of pay and overtime rate of pay. Plaintiff and the other class
10 members did not receive overtime compensation at one-and-one-half times the regular rate of
11 pay for all hours spent performing job duties in excess of eight (8) hours in a day or forty (40)
12 hours in a week or for the first eight (8) hours worked on the seventh day.

13 63. Defendants' failure to pay Plaintiff and the other class members the unpaid
14 balance of overtime compensation, as required by California laws, violates the provisions of
15 California Labor Code sections 510 and 1198, and is therefore unlawful.

16 64. Pursuant to California Labor Code section 1194, Plaintiff and the other class
17 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
18 attorneys' fees.

19 **SECOND CAUSE OF ACTION**

20 **(Violation of California Labor Code §§ 226.7 and 512(a))**

21 **(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,**

22 **RITCHIE BROS AUCTION, and DOES 1 through 100)**

23 65. Plaintiff incorporates by reference the allegations contained in paragraphs 1
24 through 64, and each and every part thereof with the same force and effect as though fully set
25 forth herein.

26 66. At all relevant times, the IWC Order and California Labor Code sections 226.7
27 and 512(a) were applicable to Plaintiff's and the other class members' employment by
28 Defendants.

1 67. At all relevant times, California Labor Code section 226.7 provides that no
2 employer shall require an employee to work during any meal or rest period mandated by an
3 applicable order of the California IWC.

4 68. At all relevant times, the applicable IWC Wage Order and California Labor
5 Code section 512(a) provide that an employer may not require, cause or permit an employee to
6 work for a work period of more than five (5) hours per day without providing the employee
7 with a meal period of not less than thirty (30) minutes, except that if the total work period per
8 day of the employee is no more than six (6) hours, the meal period may be waived by mutual
9 consent of both the employer and employee.

10 69. At all relevant times, the applicable IWC Wage Order and California Labor
11 Code section 512(a) further provide that an employer may not require, cause or permit an
12 employee to work for a work period of more than ten (10) hours per day without providing the
13 employee with a second uninterrupted meal period of not less than thirty (30) minutes, except
14 that if the total hours worked is no more than twelve (12) hours, the second meal period may
15 be waived by mutual consent of the employer and the employee only if the first meal period
16 was not waived.

17 70. During the relevant time period, Plaintiff and the other class members who were
18 scheduled to work for a period of time no longer than six (6) hours, and who did not waive
19 their legally-mandated meal periods by mutual consent, were required to work for periods
20 longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
21 minutes and/or rest period.

22 71. During the relevant time period, Plaintiff and the other class members who were
23 scheduled to work for a period of time in excess of six (6) hours were required to work for
24 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
25 (30) minutes and/or rest period.

26 72. During the relevant time period, Plaintiff and other class members' meal periods
27 were missed, shortened, late, and/or were interrupted because Defendants required them to
28 perform and complete work duties, even when it resulted in missed, shortened, late, or

1 interrupted meal periods. Defendants interrupted Plaintiff and the other class members during
2 purported meal periods with business-related inquiries, instructions for tasks, and/or to require
3 them to return to work before a full thirty (30) minutes elapsed to complete or begin tasks.
4 Defendants also automatically deducted meal periods from Plaintiff's and putative class
5 members' time records regardless of whether a compliant meal period was taken.

6 73. As a result, Defendants failed to relieve Plaintiff and the other class members of
7 all duties, failed to relinquish control over Plaintiff and the other class members' activities, failed
8 to permit Plaintiff and the other class members a reasonable opportunity to take, and impeded or
9 discouraged them from taking thirty (30) minute uninterrupted meal periods no later than the end
10 of their fifth hour of work for shifts lasting at least six (6) hours, and/or to take second thirty (30)
11 minute uninterrupted meal periods no later than their tenth hour of work for shifts lasting more
12 than ten (10) hours.

13 74. During the relevant time period, Defendants intentionally and willfully required
14 Plaintiff and the other class members to work during meal periods and failed to compensate
15 Plaintiff and the other class members the full meal period premium for work performed during
16 meal periods.

17 75. During the relevant time period, Defendants failed to pay Plaintiff and the other
18 class members the full meal period premium due pursuant to California Labor Code section
19 226.7.

20 76. Defendants' conduct violates applicable IWC Wage Order and California Labor
21 Code sections 226.7 and 512(a).

22 77. Pursuant to applicable IWC Wage Order and California Labor Code section
23 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one
24 additional hour of pay at the employee's regular rate of compensation for each work day that
25 the meal or rest period is not provided.

26 **THIRD CAUSE OF ACTION**

27 **(Violation of California Labor Code § 226.7)**

28 **(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,**

RITCHIE BROS AUCTION, and DOES 1 through 100)

78. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 77, and each and every part thereof with the same force and effect as though fully set forth herein.

79. At all times herein set forth, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and the other class members' employment by Defendants.

80. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

81. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

82. During the relevant time period, Defendants required Plaintiff and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

83. During the relevant time period, Defendants willfully required Plaintiff and the other class members to work during rest periods and failed to pay Plaintiff and the other class members the full rest period premium for work performed during rest periods.

84. During the relevant time period, Defendants failed to pay Plaintiff and the other class members the full rest period premium due pursuant to California Labor Code section 226.7

85. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

86. Pursuant to the applicable IWC Wage Orders and California Labor Code section

226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,

RITCHIE BROS AUCTION, and DOES 1 through 100)

87. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 86, and each and every part thereof with the same force and effect as though fully set forth herein.

88. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

89. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194, 1197, and 1197.1.

90. Defendants' failure to pay Plaintiff and the other class members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections Plaintiff and the other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

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91. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

92. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class members are entitled to recover liquidated damages in an amount equal to the wages

1 unlawfully unpaid and interest thereon.

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4 **FIFTH CAUSE OF ACTION**

5 **(Violation of California Labor Code §§ 201 and 202)**

6 **(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,**

7 **RITCHIE BROS AUCTION, and DOES 1 through 100)**

8 93. Plaintiff incorporates by reference the allegations contained in paragraphs 1
9 through 92, and each and every part thereof with the same force and effect as though fully set
10 forth herein.

11 94. At all relevant times herein set forth, California Labor Code sections 201 and
12 202 provide that if an employer discharges an employee, the wages earned and unpaid at the
13 time of discharge are due and payable immediately, and if an employee quits his or her
14 employment, his or her wages shall become due and payable not later than seventy-two (72)
15 hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her
16 intention to quit, in which case the employee is entitled to his or her wages at the time of
17 quitting.

18 95. During the relevant time period, Defendants intentionally and willfully failed to
19 pay Plaintiff and the other class members who are no longer employed by Defendants their
20 wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

21 96. Defendants' failure to pay Plaintiff and the other class members who are no
22 longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72)
23 hours of their leaving Defendants' employ, is in violation of California Labor Code sections
24 201 and 202.

25 97. California Labor Code section 203 provides that if an employer willfully fails to
26 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee
27 shall continue as a penalty from the due date thereof at the same rate until paid or until an
28 action is commenced; but the wages shall not continue for more than thirty (30) days.

98. Plaintiff and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 204)

(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,

RITCHIE BROS AUCTION, and DOES 1 through 100)

99. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 98, and each and every part thereof with the same force and effect as though fully set forth herein.

100. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed.

101. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

102. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

103. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and the other class members all wages due to them, within any time period permissible under California Labor Code section 204.

104. Plaintiff and the other class members are entitled to recover all remedies available for violations of California Labor Code section 204.

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SEVENTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,

RITCHIE BROS AUCTION, and DOES 1 through 100)

105. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 104, and each and every part thereof with the same force and effect as though fully set forth herein.

106. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

107. Defendants have intentionally and willfully failed to provide Plaintiff and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the total number of hours worked by Plaintiff and

1 the other class members.

2 108. As a result of Defendants' violation of California Labor Code section 226(a),
3 Plaintiff and the other class members have suffered injury and damage to their statutorily-
4 protected rights.

5 109. More specifically, Plaintiff and the other class members have been injured by
6 Defendants' intentional and willful violation of California Labor Code section 226(a) because
7 they were denied both their legal right to receive, and their protected interest in receiving,
8 accurate and itemized wage statements pursuant to California Labor Code section 226(a).
9 Because Plaintiff's and the other class members' wage statements did not reflect the accurate
10 number of hours worked, Plaintiff and the other class members were unable to determine the
11 total amount they were owed, and were unable to verify they were paid the proper amount. In
12 order to determine how much Plaintiff and the other class members should have been paid,
13 Plaintiff and the other class members would have had to engage in discovery and mathematical
14 computations in order to reconstruct the missing information.

15 110. Plaintiff and the other class members are entitled to recover from Defendants the
16 greater of their actual damages caused by Defendants' failure to comply with California Labor
17 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
18 employee.

19 111. Plaintiff and the other class members are also entitled to injunctive relief to
20 ensure compliance with this section, pursuant to California Labor Code section 226(h).

21 **EIGHTH CAUSE OF ACTION**

22 **(Violation of California Labor Code § 1174(d))**

23 **(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,**

24 **RITCHIE BROS AUCTION, and DOES 1 through 100)**

25 112. Plaintiff incorporates by reference the allegations contained in paragraphs 1
26 through 111, and each and every part thereof with the same force and effect as though fully set
27 forth herein.

28 113. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a

1 central location in the state or at the plants or establishments at which employees are
2 employed, payroll records showing the hours worked daily by and the wages paid to, and the
3 number of piece-rate units earned by and any applicable piece rate paid to, employees
4 employed at the respective plants or establishments. These records shall be kept in accordance
5 with rules established for this purpose by the commission, but in any case shall be kept on file
6 for not less than two years.

7 114. Defendants have intentionally and willfully failed to keep accurate and complete
8 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other
9 class members.

10 115. As a result of Defendants' violation of California Labor Code section 1174(d),
11 Plaintiff and the other class members have suffered injury and damage to their statutorily-
12 protected rights.

13 116. More specifically, Plaintiff and the other class members have been injured by
14 Defendants' intentional and willful violation of California Labor Code section 1174(d) because
15 they were denied both their legal right and protected interest, in having available, accurate and
16 complete payroll records pursuant to California Labor Code section 1174(d).

17 **NINTH CAUSE OF ACTION**

18 **(Violation of California Labor Code §§ 2800 and 2802)**

19 **(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,**

20 **RITCHIE BROS AUCTION, and DOES 1 through 100)**

21 117. Plaintiff incorporates by reference the allegations contained in paragraphs 1
22 through 116, and each and every part thereof with the same force and effect as though fully set
23 forth herein.

24 118. Pursuant to California Labor Code sections 2800 and 2802, an employer must
25 reimburse its employee for all necessary expenditures incurred by the employee in direct
26 consequence of the discharge of his or her job duties or in direct consequence of his or her
27 obedience to the directions of the employer.

28 119. Plaintiff and the other class members incurred necessary business-related

1 expenses and costs that were not fully reimbursed by Defendants.

2 120. Defendants have intentionally and willfully failed to reimburse Plaintiff and the
3 other class members for all necessary business-related expenses and costs.

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5 121. Plaintiff and the other class members are entitled to recover from Defendants
6 their business-related expenses and costs incurred during the course and scope of their
7 employment, plus interest accrued from the date on which the employee incurred the necessary
8 expenditures at the same rate as judgments in civil actions in the State of California.

9 **TENTH CAUSE OF ACTION**

10 **(Violation of California Business & Professions Code §§ 17200, et seq.)**

11 **(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,**

12 **RITCHIE BROS AUCTION, and DOES 1 through 100)**

13 122. Plaintiff incorporates by reference the allegations contained in paragraphs 1
14 through 121, and each and every part thereof with the same force and effect as though fully set
15 forth herein.

16 123. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
17 unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants'
18 competitors. Accordingly, Plaintiff seek to enforce important rights affecting the public
19 interest within the meaning of Code of Civil Procedure section 1021.5.

20 124. Defendants' activities as alleged herein are violations of California law, and
21 constitute unlawful business acts and practices in violation of California Business &
22 Professions Code section 17200, et seq.

23 125. A violation of California Business & Professions Code section 17200, et seq.
24 may be predicated on the violation of any state or federal law. In this instant case, Defendants'
25 policies and practices of requiring employees, including Plaintiff and the other class members,
26 to work overtime without paying them proper compensation violate California Labor Code
27 sections 510 and 1198. Additionally, Defendants' policies and practices of requiring
28 employees, including Plaintiff and the other class members, to work through their meal and

1 rest periods without paying them proper compensation violate California Labor Code sections
2 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate
3 California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and
4 practices of failing to timely pay wages to Plaintiff and the other class members violate
5 California Labor Code sections 201, 202 and 204. Defendants also violated California Labor
6 Code sections 226(a), 1174(d), 2800 and 2802.

7 126. As a result of the herein described violations of California law, Defendants
8 unlawfully gained an unfair advantage over other businesses.

9 127. Plaintiff and the other class members have been personally injured by
10 Defendants' unlawful business acts and practices as alleged herein, including but not
11 necessarily limited to the loss of money and/or property.

12 128. Pursuant to California Business & Professions Code sections 17200, et seq.,
13 Plaintiff and the other class members are entitled to restitution of the wages withheld and
14 retained by Defendants during a period that commences four years preceding the filing of this
15 Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section
16 1021.5 and other applicable laws; and an award of costs.

17 **ELEVENTH CAUSE OF ACTION**

18 **(Violation of California Labor Code § 2698, et seq.)**

19 **(Against RITCHIE BROS AUCTIONEERS AMERICA INC.,**

20 **RITCHIE BROS AUCTION, and DOES 1 through 100)**

21 129. Plaintiff incorporates by reference the allegations contained in paragraphs 1
22 through 128, and each and every part thereof with the same force and effect as though fully set
23 forth herein.

24 130. PAGA expressly establishes that any provision of the California Labor Code
25 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
26 departments, divisions, commissions, boards, agencies or employees for a violation of the
27 California Labor Code, may be recovered through a civil action brought by an aggrieved
28 employee on behalf of himself or herself, and other current or former employees.

131. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

132. Plaintiff and the other hourly-paid or non-exempt employees, are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

Failure to Pay Overtime

133. Defendants' failure to pay overtime in violation of the Wage Orders and California Labor Code sections 510 and 1198, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 510 and 1198.

Failing to Provide Meal Periods

134. Defendants' failure to provide legally required meal periods in violation of the Wage Orders and California Labor Code sections 226.7 and 512(a), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

Failure to Provide Rest Periods

135. Defendants' failure to provide legally required rest periods in violation of the Wage Orders and California Labor Code section 226.7, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226.7.

Failure to Pay Minimum Wages

136. Defendants' failure to pay minimum wages in violation of the Wage Orders and California Labor Code sections 1194, 1197 and 1197.1, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 1194, 1197, and 1197.1.

Failure to Timely Pay Wages Upon Termination

137. Defendants' failure to timely pay wages upon termination in violation of California Labor Code sections 201 and 202, as alleged above, constitutes unlawful and/or

1 unfair activity prohibited by California Labor Code sections 201 and 202.

2 **Failure to Timely Pay Wages During Employment**

3 138. Defendants' failure to timely pay wages during employment in violation of
4 California Labor Code section 204, as alleged above, constitutes unlawful and/or unfair
5 activity prohibited by California Labor Code section 204.

6 **Failure to Provide Compliant Wage Statements**

7 139. Defendants' failure to provide compliant wage statements in violation of
8 California Labor Code section 226(a), as alleged above, constitutes unlawful and/or unfair
9 activity prohibited by California Labor Code section 226(a).

10 **Failure to Keep Complete or Accurate Payroll Records**

11 140. Defendants' failure to keep complete or accurate payroll records in violation of
12 California Labor Code section 1174(d), as alleged above, constitutes unlawful and/or unfair
13 activity prohibited by California Labor Code section 1174(d).

14 **Failure to Reimburse Necessary Business Expenses**

15 141. Defendants' failure to reimburse all necessary business-related expenses and costs
16 in violation of California Labor Code sections 2800 and 2802, as alleged above, constitutes
17 unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

18 142. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on
19 behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each
20 of them, business expenses, unpaid wages, and/or untimely wages according to proof, interest,
21 attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all penalties
22 against Defendants, and each of them, including but not limited to:

- 23 a. Penalties under California Labor Code section 2699 in the amount of a
24 hundred dollars (\$100) for each aggrieved employee per pay period for the
25 initial violation, and two hundred dollars (\$200) for each aggrieved
26 employee per pay period for each subsequent violation;
- 27 b. Penalties under California Code of Regulations Title 8 section 11010, *et*
28 *seq.* in the amount of fifty dollars (\$50) for each aggrieved employee per

1 pay period for the initial violation, and one hundred dollars (\$100) for
2 each aggrieved employee per pay period for each subsequent violation;

3 c. Penalties under California Labor Code section 210 in addition to, and
4 entirely independent and apart from, any other penalty provided in the
5 California Labor Code in the amount of a hundred dollars (\$100) for each
6 aggrieved employee per pay period for the initial violation, and two
7 hundred dollars (\$200) for each aggrieved employee per pay period for
8 each subsequent violation; and

9 d. Any and all additional penalties and sums as provided by the California
10 Labor Code and/or other statutes.

11 143. Pursuant to California Labor Code section 2699(i), civil penalties recovered by
12 aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor
13 and Workforce Development Agency for the enforcement of labor laws and education of
14 employers and employees about their rights and responsibilities and twenty-five percent (25%)
15 to the aggrieved employees.

16 144. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and
17 costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable
18 statute.

19
20 **DEMAND FOR JURY TRIAL**

21 Plaintiff, individually, and on behalf of other members of the general public similarly
22 situated, and on behalf of other aggrieved employees pursuant to the California Private
23 Attorneys General Act, requests a trial by jury.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff, individually, and on behalf of other members of the general
26 public similarly situated, and on behalf of other aggrieved employees pursuant to the
27 California Private Attorneys General Act, prays for relief and judgment against Defendants,
28 jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action as to the first ten (10) causes of action;

2. That Plaintiff be appointed as the representative of the Class;

3. That counsel for Plaintiff be appointed as Class Counsel; and

4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and the other class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and

9. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiff and the other class members;

11. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to

1 proof;

2 13. For premium wages pursuant to California Labor Code section 226.7(c);

3 14. For pre-judgment interest on any unpaid wages from the date such amounts
4 were due;

5 15. For reasonable attorneys' fees and costs of suit incurred herein; and

6 16. For such other and further relief as the Court may deem just and proper.

7 **As to the Third Cause of Action**

8 17. That the Court declare, adjudge and decree that Defendants violated California
9 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
10 rest periods to Plaintiff and the other class members;

11 18. That the Court make an award to Plaintiff and the other class members of one
12 (1) hour of pay at each employee's regular rate of compensation for each workday that a rest
13 period was not provided;

14 19. For all actual, consequential, and incidental losses and damages, according to
15 proof;

16 20. For premium wages pursuant to California Labor Code section 226.7(c);

17 21. For pre-judgment interest on any unpaid wages from the date such amounts
18 were due; and

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

20 **As to the Fourth Cause of Action**

21 23. That the Court declare, adjudge and decree that Defendants violated California
22 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
23 Plaintiff and the other class members;

24 24. For general unpaid wages and such general and special damages as may be
25 appropriate;

26 25. For statutory wage penalties pursuant to California Labor Code section 1197.1
27 for Plaintiff and the other class members in the amount as may be established according to
28 proof at trial;

1 26. For pre-judgment interest on any unpaid compensation from the date such
2 amounts were due;

3 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
4 California Labor Code section 1194(a);

5 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

6 29. For such other and further relief as the Court may deem just and proper.

7 **As to the Fifth Cause of Action**

8 30. That the Court declare, adjudge and decree that Defendants violated California
9 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
10 time of termination of the employment of Plaintiff and the other class members no longer
11 employed by Defendants;

12 31. For all actual, consequential, and incidental losses and damages, according to
13 proof;

14 32. For statutory wage penalties pursuant to California Labor Code section 203 for
15 Plaintiff and the other class members who have left Defendants' employ;

16 33. For pre-judgment interest on any unpaid compensation from the date such
17 amounts were due; and

18 34. For such other and further relief as the Court may deem just and proper.

19 **As to the Sixth Cause of Action**

20 35. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code section 204 by willfully failing to pay all compensation owed at the time required
22 by California Labor Code section 204 to Plaintiff and the other class members;

23 36. For all actual, consequential, and incidental losses and damages, according to
24 proof;

25 37. For pre-judgment interest on any unpaid compensation from the date such
26 amounts were due; and

27 38. For such other and further relief as the Court may deem just and proper.

28 **As to the Seventh Cause of Action**

1 39. That the Court declare, adjudge and decree that Defendants violated the record
2 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
3 as to Plaintiff and the other class members, and willfully failed to provide accurate itemized
4 wage statements thereto;

5 40. For actual, consequential and incidental losses and damages, according to proof;

6 41. For statutory penalties pursuant to California Labor Code section 226(e);

7 42. For injunctive relief to ensure compliance with this section, pursuant to
8 California Labor Code section 226(h); and

9 43. For such other and further relief as the Court may deem just and proper.

10 **As to the Eighth Cause of Action**

11 44. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records
13 for Plaintiff and the other class members as required by California Labor Code section
14 1174(d);

15 45. For actual, consequential and incidental losses and damages, according to proof;

16 46. For statutory penalties pursuant to California Labor Code section 1174.5; and

17 47. For such other and further relief as the Court may deem just and proper.

18 **As to the Ninth Cause of Action**

19 48. That the Court declare, adjudge and decree that Defendants violated California
20 Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other
21 class members for all necessary business-related expenses as required by California Labor
22 Code sections 2800 and 2802;

23 49. For actual, consequential and incidental losses and damages, according to proof;

24 50. For the imposition of civil penalties and/or statutory penalties;

25 51. For reasonable attorneys' fees and costs of suit incurred herein; and

26 52. For such other and further relief as the Court may deem just and proper.

27 **As to the Tenth Cause of Action**

28 53. That the Court decree, adjudge and decree that Defendants violated California

1 Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the
2 other class members all overtime compensation due to them, failing to provide all meal and
3 rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to
4 Plaintiff and the other class members, failing to pay Plaintiff's and the other class members'
5 wages timely as required by California Labor Code section 201, 202 and 204 and by violating
6 California Labor Code sections 226(a), 1174(d), 2800 and 2802.

7 54. For restitution of unpaid wages to Plaintiff and all the other class members and
8 all pre-judgment interest from the day such amounts were due and payable;

9 55. For the appointment of a receiver to receive, manage and distribute any and all
10 funds disgorged from Defendants and determined to have been wrongfully acquired by
11 Defendants as a result of violation of California Business and Professions Code sections
12 17200, et seq.;

13 56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
14 California Code of Civil Procedure section 1021.5;

15 57. For injunctive relief to ensure compliance with this section, pursuant to
16 California Business and Professions Code sections 17200, et seq.; and

17 58. For such other and further relief as the Court may deem just and proper.

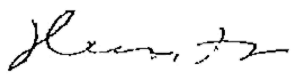
18 **As to the Eleventh Cause of Action**

19 59. For civil penalties and wages pursuant to California Labor Code sections 2699(a),
20 (f), and (g) plus costs and attorneys' fees for violation of California Labor Code sections 201,
21 202, 203, 204, 218, 226(a), 226.3, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1197.1, 1198,
22 2800, and 2802; and

23 60. For such other and further relief as the Court may deem equitable and appropriate.

24 Dated: May 19, 2021

PROTECTION LAW GROUP, LLP

25
26 By: 

27 Heather Davis
28 *Attorneys for Plaintiff*