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Superior Court of California,
County of San Diego

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

MARTIN ACELIO, 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.

GREEN PERSPECTIVES, a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 37-2021-00009515-CU-OE-CTL

Honorable Timothy Taylor
Department C-72

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES &
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);
- (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 § 1198 (Reporting Time Pay)

- (10) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (11) Violation of California Business & Professions Code §§ 17200, et seq.
- (12) Violation of California Labor Code § 2698, et seq. (California Labor Code Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff MARTIN ACELIO (“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 Attorney 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 Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it 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, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of San Diego.

PARTIES

5. Plaintiff MARTIN ACELIO is an individual residing in the State of California.

6. Defendant GREEN PERSPECTIVES, at all times herein mentioned, was and is, a California corporation and, an employer whose employees are engaged throughout the State of California, including the County of San Diego.

7. At all relevant times, Defendant GREEN PERSPECTIVES was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

8. At all times herein relevant, Defendants GREEN PERSPECTIVES, 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.

9. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sue said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint. Plaintiff will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

10. Defendant GREEN PERSPECTIVES and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

11. Plaintiff further alleges that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other class members so as to make each of said Defendants employers liable

1 under the statutory provisions set forth herein.

2 **CLASS ACTION ALLEGATIONS**

3 12. Plaintiff bring this action on his own behalf and on behalf of all other members
4 of the general public similarly situated, and, thus, seeks class certification under California
5 Code of Civil Procedure section 382.

6 13. The proposed class is defined as follows:

7 All current and former non-exempt employees who worked for the Defendant
8 within the State of California at any time during the period from March 4, 2017
9 to February 28, 2022.

10 14. Plaintiff reserves the right to establish other subclasses as appropriate.

11 15. The class is ascertainable and there is a well-defined community of interest in
12 the litigation:

13 a. Numerosity: The class members are so numerous that joinder of all class
14 members is impracticable. The membership of the entire class is
15 unknown to Plaintiff at this time; however, the class is estimated to be
16 greater than fifty (50) individuals and the identity of such membership is
17 readily ascertainable by inspection of Defendants' employment records.

18 b. Typicality: Plaintiff's claims are typical of all other class members' as
19 demonstrated herein. Plaintiff will fairly and adequately protect the
20 interests of the other class members with whom he has a well-defined
21 community of interest.

22 c. Adequacy: Plaintiff will fairly and adequately protect the interests of
23 each class member, with whom he has a well-defined community of
24 interest and typicality of claims, as demonstrated herein. Plaintiff has no
25 interest that is antagonistic to the other class members. Plaintiff's
26 attorneys, the proposed class counsel, are versed in the rules governing
27 class action discovery, certification, and settlement. Plaintiff has
28 incurred, and during the pendency of this action will continue to incur,

costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

- d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.
- e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

16. 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:

- 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) days per workweek and failed to pay the legally required overtime compensation to Plaintiff and the other class members;
- d. Whether Defendants failed to use earned commissions, non-discretionary

bonuses, non-discretionary monetary and non-monetary incentives, non-discretionary production and/or performance pay, and/or shift/differentials to calculate 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, non-discretionary monetary and non-monetary incentives, non-discretionary production and/or performance pay, and/or shift/differentials in the same workweek that they earned overtime wages;

- e. Whether Defendants failed to pay wages due to improper rounding and auto-deduction of time during the relevant time period;
- f. 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;
- g. Whether Defendants failed to pay minimum wages to Plaintiff and the other class members for all hours worked;
- h. Whether Defendants failed to pay all wages due to Plaintiff and the other class members within the required time upon their discharge or resignation;
- i. Whether Defendants failed to timely pay all wages due to Plaintiff and the other class members during their employment;
- j. Whether Defendants complied with wage reporting as required by the California Labor Code; including, *inter alia*, section 226;
- k. Whether Defendants kept complete and accurate payroll records as required by the California Labor Code, including, *inter alia*, section 1174(d);
- l. Whether Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs;
- m. Whether Defendants' conduct was willful or reckless;

- n. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- o. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- p. Whether Plaintiff and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

PAGA ALLEGATIONS

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

18. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

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

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

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

- a. The aggrieved employee shall give written notice by online submission (hereinafter "Employee's Notice") to the LWDA and by certified mail to

1 the employer of the specific provisions of the California Labor Code
2 alleged to have been violated, including the facts and theories to support
3 the alleged violations.

4 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
5 employer and the aggrieved employee by certified mail that it does not
6 intend to investigate the alleged violation within sixty (60) calendar days
7 of the postmark date of the Employee’s Notice. Upon receipt of the
8 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
9 (65) calendar days of the postmark date of the Employee’s Notice, the
10 aggrieved employee may commence a civil action pursuant to California
11 Labor Code section 2699 to recover civil penalties in addition to any
12 other penalties to which the employee may be entitled.

13 22. On March 3, 2021, Plaintiff provided written notice by online submission to the
14 LWDA and by certified mail to Defendant GREEN PERSPECTIVES of the specific provisions
15 of the California Labor Code alleged to have been violated, including the facts and theories to
16 support the alleged violations. Plaintiff did not receive an LWDA Notice within sixty-five (65)
17 days of the date of the submission of Plaintiff’s Notice.

18 23. Therefore, the administrative prerequisites under California Labor Code section
19 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies, for
20 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551,
21 552, 558 1174(d), 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 and IWC Wage
22 Orders have been satisfied.

23 **GENERAL ALLEGATIONS**

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

27 25. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-
28 exempt employee, from approximately July 2018 to approximately March 27, 2020, in the

1 State of California, County of San Diego.

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

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

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

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

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

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

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

23 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 knew or should have known that Plaintiff and the other class members were entitled to receive
25 certain wages for overtime compensation and that they were not receiving accurate overtime
26 compensation for all overtime hours worked as a result of, *inter alia*, Defendants' requiring
27 Plaintiff and the other class members to perform work off-the-clock and engaging in improper
28 rounding and automatic deduction of time.

1 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 rounded the work time recorded by Plaintiff and the other class members in a manner that was
3 not fair and neutral on its face and/or that favored Defendants over time, resulting in Plaintiff and
4 the other class members being underpaid for their time worked.

5 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 failed to use the earned commissions, non-discretionary bonuses, non-discretionary monetary
7 and non-monetary incentives, non-discretionary production and/or performance pay, and/or shift
8 differentials to calculate the regular rate of pay used to calculate the overtime rate for the
9 payment of overtime wages where Plaintiff and the other class members earned commissions,
10 non-discretionary bonuses, non-discretionary monetary and non-monetary incentives, non-
11 discretionary production and/or performance pay, and/or shift differentials and overtime wages
12 in the same workweek that they earned overtime wages.

13 36. 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 penalties.

17 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 failed to relieve Plaintiff and the other class members of all duties, failed to relinquish control
19 over Plaintiff and the other class members' activities, failed to permit Plaintiff and the other class
20 members a reasonable opportunity to take, and impeded or discouraged them from taking thirty
21 (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work for shifts
22 lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted meal breaks
23 no later than their tenth hour of work for shifts lasting more than ten (10) hours. Defendants also
24 automatically deducted time from Plaintiff's and the other class members' time records
25 regardless of whether a compliant meal period was taken.

26 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 knew or should have known that Plaintiff and the other class members were entitled to receive
28 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class

1 member's regular rate of pay when a meal period was missed, short, late or interrupted and
2 they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's and
3 the other class member's regular rate of pay when a meal period was missed, short, late or
4 interrupted.

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

12 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 knew or should have known that Plaintiff and the other class members were entitled to receive
14 at least minimum wages for compensation and that they were not receiving at least minimum
15 wages for all hours worked. Defendants' failure to pay minimum wages included, *inter alia*,
16 Defendants' effective payment of zero dollars per hour for hours Plaintiff and the other class
17 members worked off-the-clock performing work duties and for hours shaved from their time
18 cards due to Defendants' improper rounding and auto-deduction of time.

19 41. 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 42. 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 43. 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 total number of hours worked by Plaintiff and the
6 other class members, including work performed off-the-clock.

7 44. 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 45. 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 46. 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 47. 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 were required to work more than eight (8) hours per day and/or forty (40) hours
23 per week, and/or six (6) consecutive days in a workweek without overtime compensation for
24 all overtime hours worked.

25 48. During the relevant time period, Defendants failed to use the earned commissions,
26 non-discretionary bonuses, non-discretionary monetary and non-monetary incentives, non-
27 discretionary production and/or performance pay, and/or shift differentials to calculate the
28 regular rate of pay used to calculate the overtime rate for the payment of overtime wages where

1 Plaintiff and the other class members earned commissions, non-discretionary bonuses, non-
2 discretionary monetary and non-monetary incentives, non-discretionary production and/or
3 performance pay, and/or shift differentials and overtime wages in the same workweek that they
4 earned overtime wages.

5 49. During the relevant time period, Defendants rounded the work time recorded by
6 Plaintiff and the other class members in a manner that was not fair and neutral on its face and/or
7 that favored Defendants over time, resulting in Plaintiff and the other class members being
8 underpaid for their time worked.

9 50. During the relevant time period, Defendants failed to provide all requisite
10 uninterrupted meal and rest periods to Plaintiff and the other class members.

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

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

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

18 54. During the relevant time period, Defendants failed to provide complete or
19 accurate wage statements to Plaintiff and the other class members.

20 55. During the relevant time period, Defendants failed to keep complete or accurate
21 payroll records for Plaintiff and the other class members.

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

24 57. During the relevant time period, Defendants failed to properly compensate
25 Plaintiff and the other class members pursuant to California law in order to increase
26 Defendants' profits.

27 58. California Labor Code section 218 states that nothing in Article 1 of the Labor
28 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty

1 due to him [or her] under this article.”

2 **FIRST CAUSE OF ACTION**

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

4 **(Against GREEN PERSPECTIVES and DOES 1 through 100)**

5 59. Plaintiff incorporates by reference the allegations contained in Paragraphs 1
6 through 55, and each and every part thereof with the same force and effect as though fully set
7 forth herein.

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

13 61. Specifically, the applicable IWC Wage Order provides that Defendants are and
14 were required to pay Plaintiff and the other class members employed by Defendants, and
15 working more than eight (8) hours in a day, more than forty (40) hours in a week, and/or more
16 than six (6) consecutive days in a workweek, at the rate of time-and-one-half for all hours
17 worked in excess of eight (8) hours in a day, more than forty (40) hours in a week, or for the
18 first eight (8) hours worked on the seventh day in a workweek.

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

22 63. California Labor Code section 510 codifies the right to overtime compensation
23 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
24 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
25 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
26 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
27 of work.

28 64. During the relevant time period, Plaintiff and the other class members worked in

1 excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week, and/or in
2 excess of six (6) consecutive days in a workweek.

3 During the relevant time period, Defendants intentionally and willfully failed to pay overtime
4 wages owed to Plaintiff and the other class members.

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

8 66. Pursuant to California Labor Code section 1194, Plaintiff and the other class
9 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
10 attorneys' fees.

11 **SECOND CAUSE OF ACTION**

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

13 **(Against GREEN PERSPECTIVES and DOES 1 through 100)**

14 67. Plaintiff incorporates by reference the allegations contained in paragraphs 1
15 through 66, and each and every part thereof with the same force and effect as though fully set
16 forth herein.

17 68. At all relevant times, the IWC Order and California Labor Code sections 226.7
18 and 512(a) were applicable to Plaintiff's and the other class members' employment by
19 Defendants.

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

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

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

8 72. During the relevant time period, Defendants failed to relieve Plaintiff and the
9 other class members of all duties, failed to relinquish control over Plaintiff's and the other class
10 members' activities, failed to permit Plaintiff and the other class members a reasonable
11 opportunity to take, and impeded or discouraged them from taking thirty (30) minute
12 uninterrupted meal periods no later than the end of their fifth hour of work for shifts lasting at
13 least six (6) hours, and/or to take second thirty (30) minute uninterrupted meal periods no later
14 than their tenth hour of work for shifts lasting more than ten (10) hours. Defendants also
15 automatically deducted meal periods from Plaintiff's and the other class members' time records
16 regardless of whether a compliant meal period was taken.

17 73. 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 74. 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 75. During the relevant time period, Defendants intentionally and willfully required
27 Plaintiff and the other class members to work during meal periods and failed to compensate
28 Plaintiff and the other class members the full meal period premium for work performed during

meal periods.

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

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

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

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against GREEN PERSPECTIVES and DOES 1 through 100)

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

80. 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.

81. 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.

82. 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.

83. 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. Defendants also required Plaintiff and other class members to remain on the premises during rest periods. Defendants also required Plaintiff and other class members to combine their meal and rest periods.

84. 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.

85. 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.

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

87. 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 GREEN PERSPECTIVES and DOES 1 through 100)

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

89. 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.

90. 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. Defendants' failure to pay wages required by law included, *inter alia*, Defendants' effective payment of zero dollars per hour for hours Plaintiff and the other class members worked off-the-clock performing work duties and also implementing an improper rounding procedure and automatically deducting meal periods from Plaintiff's and other class members' time records regardless of whether a compliant meal period was taken.

91. 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.

92. 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.

93. 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 unlawfully unpaid and interest thereon.

FIFTH CAUSE OF ACTION

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

(Against GREEN PERSPECTIVES and DOES 1 through 100)

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

95. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her

1 intention to quit, in which case the employee is entitled to his or her wages at the time of
2 quitting.

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

6 97. Defendants' failure to pay Plaintiff and the other class members who are no
7 longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72)
8 hours of their leaving Defendants' employ, is in violation of California Labor Code sections
9 201 and 202.

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

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

17 **SIXTH CAUSE OF ACTION**

18 **(Violation of California Labor Code § 204)**

19 **(Against GREEN PERSPECTIVES and DOES 1 through 100)**

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

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

28 102. 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.

103. 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.

104. 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.

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

SEVENTH CAUSE OF ACTION

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

(Against GREEN PERSPECTIVES and DOES 1 through 100)

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

107. 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,

1 showing the month, day, and year, and a copy of the statement or a record of the deductions
2 shall be kept on file by the employer for at least three years at the place of employment or at a
3 central location within the State of California.

4 108. Defendants have intentionally and willfully failed to provide Plaintiff and the
5 other class members with complete and accurate wage statements. The deficiencies include,
6 but are not limited to: the failure to include the total number of hours worked by Plaintiff and
7 the other class members, including work performed off-the-clock.

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

11 110. More specifically, Plaintiff and the other class members have been injured by
12 Defendants' intentional and willful violation of California Labor Code section 226(a) because
13 they were denied both their legal right to receive, and their protected interest in receiving,
14 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

15 111. 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.

19 112. 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 GREEN PERSPECTIVES and DOES 1 through 100)**

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

27 114. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a
28 central location in the state or at the plants or establishments at which employees are

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

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

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

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

16 **NINTH CAUSE OF ACTION**

17 **(Violation of California Labor Code § 1198)**

18 **(Against GREEN PERSPECTIVES and DOES 1 through 100)**

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

22 119. The applicable IWC Wage Orders (including Wage Order Nos. 1-2001, Section
23 5; 3-2001, Section 5; 4-2001, Section 5; 5-2001, Section 5; 7-2001, Section 5; and 8-2001,
24 Section 5), and Labor Code section 1198 provide that each workday an employee is required to
25 report for work and does report, but is not put to work or is furnished less than half said
26 employee's usual or scheduled day's work, the employee shall be paid for half the usual or
27 scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours,
28 at the employee's regular rate of pay, which shall not be less than the minimum wage.

120. The applicable IWC Wage Orders and Labor Code section 1198 further provide that if an employee is required to report for work a second time in any one workday and is furnished less than two hours of work on the second reporting, said employee shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the minimum wage.

121. Defendants failed to pay Plaintiff and the other class members for half their usual or scheduled day's work, in an amount no less than two (2) hours nor more than (4) hours, at Plaintiff's and the other class members' regular rate of pay for each workday in which Plaintiff and the other class members were required to report to work, did report to work, and were not put to work or were furnished less than half of said employee's usual or scheduled day's work.

122. Defendants failed to pay Plaintiff and the other class members for two (2) hours at Plaintiff's and the other class members' regular rate of pay for each day in which Plaintiff and the other class members were required to report for work a second time in one workday and were furnished less than two (2) hours of work on the second reporting.

123. Plaintiff and the other class members are entitled to recover all remedies available for violation of Labor Code section 1198 and the applicable IWC Wage Orders, including and not limited to, unpaid reporting time wages, applicable penalties, interest thereon, attorneys' fees, and costs of suit.

TENTH CAUSE OF ACTION

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

(Against GREEN PERSPECTIVES and DOES 1 through 100)

124. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 123, and each and every part thereof with the same force and effect as though fully set forth herein.

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

1 obedience to the directions of the employer.

2 126. Plaintiff and the other class members incurred necessary business-related
3 expenses and costs that were not fully reimbursed by Defendants.

4 127. Defendants have intentionally and willfully failed to reimburse Plaintiff and the
5 other class members for all necessary business-related expenses and costs.

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

10 **ELEVENTH CAUSE OF ACTION**

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

12 **(Against GREEN PERSPECTIVES and DOES 1 through 100)**

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

16 130. 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 seeks to enforce important rights affecting the public
19 interest within the meaning of Code of Civil Procedure section 1021.5.

20 131. 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.

23 132. 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

rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing to provide one day of rest in seven days' work violate California Labor Code sections 551 and 552. Defendants' policies and practices of failing to pay minimum wages required by law violate California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the other class members violate California Labor Code sections 201, 202 and 204. Defendants also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

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

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

135. Pursuant to California Business & Professions Code sections 17200, et seq., Plaintiff and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences March 4, 2017; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

TWELFTH CAUSE OF ACTION

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

(Against GREEN PERSPECTIVES and DOES 1 through 100)

136. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 135, and each and every part thereof with the same force and effect as though fully set forth herein.

137. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved

employee on behalf of himself or herself, and other current or former employees.

138. 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.

139. 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

140. Defendants’ failure to pay legally required overtime wages to Plaintiff and the other aggrieved employees is 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.

Failure to Provide Meal Periods

141. Defendants’ failure to provide legally required meal periods to Plaintiff and the other aggrieved employees is 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

142. Defendants’ failure to provide legally required rest periods to Plaintiff and the other aggrieved employees is 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

143. Defendants’ failure to pay legally required minimum wages to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and California Labor Code sections 1194, 1197 and 1197.1, as alleged above, constitutes unlawful or unfair activity

prohibited by California Labor Code sections 1194, 1197 and 1197.1.

Failure to Timely Pay Wages Upon Termination

144. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees upon termination in violation of Labor Code sections 201 and 202, as alleged above constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

145. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees during employment in violation of Labor Code section 204, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Complete and Accurate Wage Statements

146. Defendants' failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in violation of Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete or Accurate Payroll Records

147. Defendants' failure to keep complete or accurate payroll records relating to Plaintiff and the other aggrieved employees in violation of California Labor Code section 1174(d), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Pay Reporting Time Pay

148. Defendants' failure to pay Plaintiffs and the other aggrieved employees reporting time pay constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1198 and the applicable IWC Wage Orders.

Failure to Reimburse Necessary Business-Related Expenses and Costs

149. Defendants' failure to reimburse Plaintiff and the other aggrieved employees for all necessary business-related expenses and costs in violation of California Labor Code sections 2800 and 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

1 150. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on
2 behalf of all aggrieved employees, requests and is entitled to recover from Defendants and
3 each of them, business expenses, unpaid wages, and/or untimely wages according to proof,
4 interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as
5 all statutory penalties against Defendants, and each of them, including but not limited to:

- 6 a. Penalties under California Labor Code section 2699 in the amount of a
7 hundred dollars (\$100) for each aggrieved employee per pay period for the
8 initial violation, and two hundred dollars (\$200) for each aggrieved
9 employee per pay period for each subsequent violation;
10 b. Penalties under California Code of Regulations Title 8 section 11010, et
11 seq. in the amount of fifty dollars (\$50) for each aggrieved employee per
12 pay period for the initial violation, and one hundred dollars (\$100) for
13 each aggrieved employee per pay period for each subsequent violation;
14 c. Penalties under California Labor Code section 210 in addition to, and
15 entirely independent and apart from, any other penalty provided in the
16 California Labor Code in the amount of a hundred dollars (\$100) for each
17 aggrieved employee per pay period for the initial violation, and two
18 hundred dollars (\$200) for each aggrieved employee per pay period for
19 each subsequent violation; and
20 d. Any and all additional penalties and sums as provided by the California
21 Labor Code and/or other statutes.

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

27 152. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and
28 costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable

1 statute.

2 **DEMAND FOR JURY TRIAL**

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

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff, individually, and on behalf of other members of the general
8 public similarly situated, the State of California, and other aggrieved employees pursuant to the
9 California Private Attorneys General Act, prays for relief and judgment against Defendants and
10 on behalf of, jointly and severally, as follows:

11 **Class Certification**

- 12 1. That this action be certified as a class action;
- 13 2. That Plaintiff be appointed as the representative of the Class with respect to the
14 first eleven causes of action;
- 15 3. That counsel for Plaintiff be appointed as Class Counsel; and
- 16 4. That Defendants provide to Class Counsel immediately the names and most
17 current/last known contact information (address, e-mail and telephone numbers) of all class
18 members.

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

- 20 5. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
22 all overtime wages due to Plaintiff and the other class members;
- 23 6. For general unpaid wages at overtime wage rates and such general and special
24 damages as may be appropriate;
- 25 7. For pre-judgment interest on any unpaid overtime compensation commencing
26 from the date such amounts were due;
- 27 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
28 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 proof;

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

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

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

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

As to the Third Cause of Action

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

18. 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 rest period was not provided;

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

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

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

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

As to the Fourth Cause of Action

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

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

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

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

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

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

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

As to the Fifth Cause of Action

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

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

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

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

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

As to the Sixth Cause of Action

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

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

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

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

As to the Seventh Cause of Action

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

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

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

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

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

As to the Eighth Cause of Action

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

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

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

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

As to the Ninth Cause of Action

48. That the Court adjudge and decree that Defendants violated California Labor Code section 1198 and the applicable IWC Wage Orders by failing to pay Plaintiffs and the other class members reporting time pay.

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

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

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

As to the Tenth Cause of Action

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

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

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

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

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

As to the Eleventh Cause of Action

57. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

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

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

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

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

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

As to the Twelfth Cause of Action

63. For civil penalties and wages pursuant to California Labor Code sections 2699(a), (f) and (g) plus costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 and IWC Wage Orders; and

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

Dated: November 18, 2022

LAWYERS for JUSTICE, PC

By: 
Annabel Blanchard
Attorneys for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 410 West Arden Avenue, Suite 203, Glendale, California 91203.

On November 18, 2022 I served the following document(s) described as:

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

on interested parties in this action as follows:

Cameron O. Flynn (email: cameron.flynn@ogletree.com)
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 18, 2022, at Glendale, California.



Lindsey Crosby