

FILED

SEP 16 2021

Clerk of the Court
Superior Court of California
County of Calaveras

By [Signature] Deputy

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11 individually and on behalf of all other similarly situated employees

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SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF CALAVERAS

RAYMUNDO VALLES, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

TRICORP GROUP, INC., a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 01 CV 45611

CLASS ACTION

COMPLAINT FOR DAMAGES:

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Failure to Timely Pay Wages
7. Failure to Reimburse Expenses
8. Failure to Maintain Accurate Records
9. Failure to Provide Paid Sick Leave
10. Unfair Competition
11. Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 Plaintiff RAYMUNDO VALLES ("Plaintiff"), on behalf of himself and all other similarly
2 situated employees, hereby files this Complaint against Defendant TRICORP GROUP, INC., a
3 California Corporation; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as
4 "Defendants"). On information and belief, Plaintiff alleges the following:

5 INTRODUCTION

6 1. This is a class action and Private Attorneys General Act ("PAGA") lawsuit brought by
7 Plaintiff for failure to pay minimum wages, failure to pay overtime wages, meal period violations, rest
8 period violations, wage statement violations, failure to timely pay final wages, failure to reimburse
9 expenses, and unfair competition.

10 JURISDICTION AND VENUE

11 2. The Calaveras County Superior Court has jurisdiction in this matter pursuant to
12 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
13 Labor Code, California Business and Professions Code, and Wage Order No. 16.

14 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), and 395.5, in that
15 Defendants reside in Calaveras County. In addition, some of the wrongful acts and violations of law
16 asserted herein occurred within Calaveras County, and Defendants' obligation to pay wages arose in
17 Calaveras County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414
18 (1984).

19 4. Plaintiff has sought permission pursuant to California Labor Code section 2698 *et seq.* to
20 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
21 of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
22 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
23 ("LWDA") on approximately April 27, 2021. Plaintiff provided facts and legal bases for his claims
24 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
25 of action. Plaintiff also submitted the \$75.00 filing fee. The April 27, 2021, notice was also sent via
26 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
27 Plaintiff's notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
28 pursuant to the Private Attorneys General Act ("PAGA") and may bring this action on behalf of himself

1 and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A),
2 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).

3 Aggrieved Employees include, but are not limited to the following: all non-exempt employees who have
4 or continue to work for Defendant from April 27, 2020 to the present.

5 PARTIES

6 5. RAYMUNDO VALLES is an individual over the age of eighteen (18) and is a
7 resident of the State of California.

8 6. On information and belief, Plaintiff alleges, TRICORP GROUP, INC., is now and/or
9 at all times mentioned in this Complaint was a California Corporation and the owner and operator of
10 an industry, business and/or facility doing business in the State of California.

11 7. Defendants DOES 1 through 100 are affiliates, subsidiaries, and related entities and the
12 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
13 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
14 names and capacities of these DOE Defendants when they are ascertained. At all times mentioned
15 herein, each Defendant was the agent or employee of each of the other Defendants and was acting within
16 the course and scope of such agency or employment. The Defendants are jointly and severally liable to
17 Plaintiff.

18 8. At all times mentioned herein, each Defendant was the agent or employee of each of the
19 other Defendants and was acting within the course and scope of such agency or employment. The
20 Defendants are jointly and severally liable to Plaintiff.

21 9. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
22 were members of and/or engaged in a joint employment, joint venture, partnership, and common
23 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
24 joint venture, partnership, and common enterprise.

25 10. Defendants, and each of them, now and/or at all times mentioned in this Complaint
26 approved, ratified, acquiesced, aided, or abetted the acts and omissions alleged in this Complaint.

27 11. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
28 wrongs, complaints, injuries and/or damages alleged in this Complaint.

CLASS ALLEGATIONS

12. Plaintiff brings the First through Eighth Causes of Action on behalf of himself and all others similarly situated as a class action pursuant to California Code of Civil Procedure section 382. The class which Plaintiff seeks to represent is composed of, and defined, as follows:

all non-exempt employees who have or continue to work for Defendants in California from May 7, 2017 to the present.

13. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

(a) Numerosity: The putative class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff at this time, Plaintiff is informed and believes that Defendants have employed as many as fifty (50) individuals falling within the above stated class definition throughout the State of California during the applicable statute of limitations, who were subjected to the policies and practices outlined in this Complaint. As such, joinder of all members of the putative class is not practicable.

(b) Common Questions Predominate: Common questions of law and fact exist as to all members of the putative class and predominate over questions that affect only individual members of the class. These common questions of law and fact include, without limitation, the following:

- (1) Whether Defendants had a policy and practice to pay all overtime wages;
- (2) Whether Defendants had a policy and practice to pay all minimum wages;
- (3) Whether Defendants authorized and permitted all meal periods;
- (4) Whether Defendants authorized and permitted all rest periods;
- (5) Whether Defendants had a policy and practice to reimburse Plaintiff and putative class members for the use of their cellphones, personal equipment, and vehicles for work purposes;

1 (6) Whether as a result of Defendants' policies and practices Plaintiff's and putative
2 class members received all wages, due and owing, at the time of their termination
3 or separation; and

4 (7) Whether Defendants provided Plaintiff's and putative class members with wage
5 statements that complied with Labor Code section 226.

6 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
7 class. The putative class also sustained damages arising out of Defendants' common
8 course of conduct in violation of the law as complained of herein. Plaintiff and all
9 members of the putative class were non-exempt employees who were not compensated
10 for all time worked, including daily overtime, were not authorized and permitted to take
11 all meal and paid rest periods, and were not reimbursed for the personal use of their
12 cellphones, personal equipment, and vehicles. These policies and practices resulted in
13 unpaid minimum and overtime wages, meal and rest period violations, wage statement
14 violations, waiting time penalties, and unfair competition. Additionally, Defendants
15 issued Plaintiff and all members of the putative class wage statements that did not comply
16 with Labor Code section 226. As a result, Plaintiff and each member of the putative class
17 will have suffered the same type of harm and seek the same type of recovery based on the
18 same legal theories.

19 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
20 putative class. For all relevant times, Plaintiff resided in California and worked for
21 Defendants in California. Moreover, Plaintiff is an adequate representative of the
22 putative class as Plaintiff has no interests that are adverse to those of putative class
23 members. Additionally, Plaintiff has retained counsel who has substantial experience in
24 complex civil litigation and wage and hour matters.

25 (e) Superiority: A class action is superior to other available means for the fair and efficient
26 adjudication of the controversy since individual joinder of all members of the putative
27 class is impracticable. Class action treatment will permit a larger number of similarly
28 situated persons to prosecute their common claims in a single forum simultaneously,

efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. Further, as damages suffered by each individual member of the class may be relatively small, the expenses and burden of the individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them, and an important public interest will be served by addressing the matter as a class action. The cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

14. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

GENERAL ALLEGATIONS

15. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 14 as though fully set forth herein.

16. Plaintiff worked for Defendants from June 9, 2020, until March 10, 2021. Defendants run a construction business, for which Plaintiff worked as a plumber and construction worker. Plaintiff typically worked forty (40) hours per week or more, at eight (8) hours per day or more.

17. Defendants failed to pay Plaintiff and other similarly situated employees for all hours worked. Plaintiff and similarly situated employees would not clock in or out themselves at the end of their shifts. Instead, Defendants would mark down when each employee arrived for the day based on when they visibly saw them rounding employees' time worked to the nearest hour or half hour. Often Defendants would just assume everyone arrived at seven (7) a.m., regardless of whether the employee would arrive earlier. To clock out, Plaintiff and similarly situated employees would tell the managers on site when they were leaving for the day. Plaintiff estimates that he and similarly situated employees were underpaid 5-10 minutes per shift as a result of these practices. These practices also resulted in inaccurate time records.

18. Additionally, Defendants had a policy to not allow daily overtime. If, for instance, Plaintiff worked nine (9) hours one day, Defendant would record the extra hour of work on a day where

1 he did not work a full eight (8) hour day. This time shifting practice allowed Defendants to avoid paying
2 daily overtime wages.

3 19. Further, Defendants failed to provide meal periods to Plaintiff and similarly situated
4 employees in compliance with California law. Specifically, Defendants regularly failed to allow
5 Plaintiff and similarly situated employees to take a lunch break before the end of his fifth hour of work.
6 Plaintiff and similarly situated employees were never paid a meal period premium for late or missed
7 lunch breaks.

8 20. Moreover, Defendants failed to provide rest breaks for Plaintiff and similarly situated
9 employees. Defendants would not provide Plaintiff and similarly situated employees with a break of at
10 least ten (10) minutes for each work period that they worked more than four (4) hours or a major
11 fraction thereof. Defendant would require Plaintiff to work through required rest periods and would not
12 pay premiums for missed breaks.

13 21. Finally, Defendants failed to reimburse Plaintiff and similarly situated employees for
14 expenses incurred on behalf of Defendants. Plaintiff would be required at times to use his personal
15 vehicle to go to hardware stores to get needed supplies for Defendants. Plaintiff was not reimbursed for
16 the use of his personal vehicle for these purposes. Plaintiff and similarly situated employees also used
17 their personal cells phones and equipment for work purposes.

18 22. As a result of Defendants' failure to pay Plaintiff and similarly situated employees all
19 overtime wages, minimum wages, and meal and rest period premiums owed, the wage statements
20 Defendant issued were defective. Specifically, Defendants did not accurately list total hours worked,
21 wages due, and total missed meal and rest period premiums earned, and the corresponding rates of pay.

22 23. As a further result of Defendants' failure to pay Plaintiff and similarly situated
23 employees for all regular and overtime hours worked and failure to pay meal and rest period premiums
24 during employment Defendants failed to provide all final wages owed to Plaintiff and similarly situated
25 employees within twenty-four (24) hours of their termination or seventy-two (72) hours of their
26 resignation.

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1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**
3 **FAILURE TO PAY OVERTIME WAGES**
4 **(As to all Defendants)**

5 24. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 23 as though fully
6 set forth herein.

7 25. During the period Plaintiff was employed by Defendants, Defendants were required to
8 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
9 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
10 hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 16, section*
11 *(3)(A); Cal. Lab. Code §§ 510, 1194.*

12 26. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
13 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
14 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
15 worked at their regular rate of pay.

16 27. Plaintiff and similarly situated employees were not exempt from overtime protections
17 employees under the California Wage Orders and Labor Code.

18 28. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
19 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
20 the extent pertinent as if set forth here in full.

21 **SECOND CAUSE OF ACTION**
22 **FAILURE TO PAY MINIMUM WAGES**
23 **(As to all Defendants)**

24 29. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 28 as though fully
25 set forth herein.

26 30. For the period preceding the filing of this Complaint, Defendants were required to
27 compensate Plaintiff and similarly situated employees with at least California's applicable minimum for
28 every hour worked. *See MW-Order 2019; IWC Wage Order, No. 16, section 4(A); Cal. Lab. Code §*
1194.

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1 31. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their
2 obligation to pay the minimum wage for each hour worked but failed to do so.

3 32. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
4 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
5 the extent pertinent as if set forth here in full.

6
7 **THIRD CAUSE OF ACTION**
MEAL PERIOD VIOLATIONS
8 **(As to all Defendants)**

9 33. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 32 as though fully
10 set forth herein.

11 34. An employer must provide an employee a meal period in accordance with the
12 applicable Wage Order, and California Labor Code sections 226.7 and 512.

13 35. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 16, section
14 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30)
15 minutes for each work period of more than five (5) hours.

16 36. California Labor Code section 512 and Wage Order No. 16 section 11(B) further
17 provide that employers may not employ employees for a work period for more than ten (10) hours
18 per day without providing the employee with a second meal period of at least thirty (30) minutes.
19 However, if the total hours worked is no more than twelve (12) hours, the second meal period may
20 be waived so long as there was no waiver as to the first meal period. Employees are entitled to one
21 (1) hour of pay at their regular rate of compensation for each meal period not provided.

22 37. Defendants employed Plaintiff and similarly situated employees for periods of more
23 than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal
24 period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more
25 than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated
26 employees to take their first meal period before the completion of their fifth hour of work and failed
27 to allow Plaintiff and similarly situated employees to take their second meal period before the
28

1 completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their
2 rights to all meal periods throughout their employment.

3 38. Defendants further failed to pay Plaintiff and similarly situated employees the
4 applicable meal period premiums for any such missed meal breaks.

5 39. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
6 employees have been damaged as stated in the section below entitled "DAMAGES," which is
7 incorporated here to the extent pertinent as if set forth here in full.

8 **FOURTH CAUSE OF ACTION**
9 **REST PERIOD VIOLATIONS**
(As to all Defendants)

10 40. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 39 as though fully
11 set forth herein.

12 41. An employer must provide an employee a rest period in accordance with the
13 applicable Wage Order and California Labor Code section 226.7.

14 42. California Labor Code section 226.7 and Wage Order No. 16, section 12(A) require
15 an employer to provide a rest period of not less than ten (10) minutes for each work period of more
16 than four (4) hours or a major fraction thereof.

17 43. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
18 situated employees to take paid rest periods of at least ten (10) minutes for each work period that
19 they worked more than four (4) hours or a major fraction thereof.

20 44. Defendants further failed to pay Plaintiff and similarly situated employees the
21 applicable rest period premiums for any such missed rest periods.

22 45. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
23 employees have been damaged as stated in the section below entitled "DAMAGES," which is
24 incorporated here to the extent pertinent as if set forth here in full.

25 **FIFTH CAUSE OF ACTION**
26 **WAGE STATEMENT VIOLATIONS**
(As to all Defendants)

27 46. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 45 as though fully
28 set forth herein.

1 47. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
2 statement to an employee, semimonthly or at the time of each payment of wages, showing:

3 *(1) gross wages earned, (2) total hours worked by the employee, except for*
4 *any employee whose compensation is solely based on a salary and who is*
5 *exempt from payment of overtime under subdivision (a) of Section 515 or*
6 *any applicable order of the Industrial Welfare Commission, (3) the*
7 *number of piece-rate units earned and any applicable piece rate if the*
8 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
9 *all deductions made on written orders of the employee may be aggregated*
10 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
11 *period for which the employee is paid, (7) the name of the employee and*
12 *the last four digits of his or her social security number or an employee*
13 *identification number other than a social security number, (8) the name*
14 *and address of the legal entity that is the employer and, if the employer is*
15 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
16 *name and address of the legal entity that secured the services of the*
17 *employer, and (9) all applicable hourly rates in effect during the pay*
18 *period and the corresponding number of hours worked at each hourly rate*
19 *by the employee. The deductions made from payment of wages shall be*
20 *recorded in ink or other indelible form, properly dated, showing the*
21 *month, day, and year, and a copy of the statement and the record of the*
22 *deductions shall be kept on file by the employer for at least three years at*
23 *the place of employment or at a central location within the State of*
24 *California.*

25 48. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
26 itemized statement or failed to provide an accurate and complete itemized statement showing the
27 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
28 accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime
and double time hours worked and corresponding rates of pay, and gross and net wages earned. The
paystubs also did not accurately itemize Plaintiff's and similarly situated employees' total hours
worked due to Defendants' security check policy that resulted in off-the-clock work. Plaintiff and
similarly situated employees were not able to promptly and easily determine their total hours worked
from their paystubs alone. Additionally, Plaintiff and similarly situated employees suffered
confusion over whether they received all wages owed and were prevented from effectively
challenging information on their wage statements.

 49. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
employees have been damaged as stated in the section below entitled "DAMAGES," which is
incorporated here to the extent pertinent as if set forth here in full.

SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(As to all Defendants)

50. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 49 as though fully set forth herein.

51. An employer must pay all wages, other than final wages, earned by an employee between the 1st and 15th days, inclusive, of any calendar month, between the 16th and 26th day of the month during which the labor was performed. *See* Cal. Lab. Code § 204.

52. An employer must pay all wages, other than final wages, earned by an employee between the 16th and last day, inclusive, of any calendar month, between the 1st and 10th day of the following month. *See* Cal. Lab. Code § 204.

53. An employer must pay all wages earned for labor in excess of the normal work period no later than the payday for the next regular payroll period. *See* Cal. Lab. Code § 204.

54. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. *See* Cal. Lab. Code § 201.

55. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of their resignation. *See* Cal. Lab. Code § 202.

56. Plaintiff and similarly situated employees did not receive all wages, including minimum and overtime wages, meal and rest period premiums, or all sick leave pay owed during their employment, at their termination or within the required time after their separation from employment.

57. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. *See* Cal. Lab. Code § 203.

58. Defendants knew of their obligation to pay Plaintiffs and similarly situated employees' their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff and similarly situated employees were being underpaid minimum and overtime wages and meal and rest period premiums because Defendants themselves implemented the policies and practices that resulted in these wage and hour violations. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation, yet Defendants still refused to pay the remaining wages owed.

1 59. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
2 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
3 thirty (30) days for Defendants' failure to pay all wages due.

4 **SEVENTH CAUSE OF ACTION**
5 **FAILURE TO REIMBURSE EXPENSES**
6 **(As to all Defendants)**

7 60. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 59 as though fully
8 set forth herein.

9 61. California Labor Code section 2802(a) states that "An employer shall indemnify his or
10 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
11 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
12 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
unlawful."

13 62. Defendants required Plaintiff and similarly situated employees to use their own phones,
14 equipment and vehicles for work purposes but failed to reimburse them for such use.

15 63. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
16 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
17 the extent pertinent as if set forth here in full.

18 **EIGHTH CAUSE OF ACTION**
19 **FAILURE TO MAINTAIN ACCURATE RECORDS**
20 **(As to all Defendants)**

21 64. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 63 as though fully
22 set forth herein.

23 65. Labor Code section 226.3 provides that any employer who fails to maintain records
24 required by Labor Code section 226(a) or provide records required by 226(a) shall be subject shall be
25 subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in
26 an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
citation.

27 66. Labor Code section 1174(d) provides that employers must keep and maintain accurate
28 payroll records showing the hours worked daily by, and the wages paid to, employees.

67. Defendants failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff and similarly situated employees' wage records and hours worked.

68. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

NINTH CAUSE OF ACTION
FAILURE TO PROVIDE PAID SICK LEAVE
(As to all Defendants)

69. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 68 as though fully set forth herein.

70. Labor Code sections 246, *et seq.*, mandate that employers must provide California employees, who work thirty (30) or more days within a year for the employer, paid sick leave of at least one (1) hour for every thirty (30) hours worked that begins to accrue at the commencement of employment. An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than twenty-four (24) hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. An employer may limit the use of sick leave to either twenty-four (24) hours or the equivalent of three (3) days, whichever is greater, during a year period. However, employers using an accrual method rather than a lump sum method must allow employees to accrue up to forty-eight (48) hours or the equivalent of six (6) days at any given time. Employers must authorize employees to take paid sick leave under the conditions set forth in the Healthy Workplaces, Healthy Families Act of 2014 (“HWHFA”) for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee’s family member. Any sick leave taken must be paid at the employee’s regular rate of pay.

71. Defendants failed to provide Plaintiff and similarly situated employees with sick leave meeting the requirements set forth in HWHFA.

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1 72. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
2 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
3 the extent pertinent as if set forth here in full.

4 **TENTH CAUSE OF ACTION**
5 **UNFAIR COMPETITION**
6 **(As to all Defendants)**

7 73. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 72 as though fully
8 set forth herein.

9 74. Unfair competition shall mean and include any unlawful, unfair, or fraudulent business
10 act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter
11 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See*
12 California Business and Professions ("B&P") Code § 17200.

13 75. Plaintiff and similarly situated employees were not paid all wages owed, including
14 minimum and overtime wages, and meal and rest period premiums, paid sick leave, or reimbursed for
15 business expenses, during their employment or any time thereafter.

16 76. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
17 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to
18 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

19 77. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the
20 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
21 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code
22 sections 17203, 17208, violations of California Labor Code sections 226.7, 510, 512, and 1194 all in an
23 amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

24 **ELEVENTH CAUSE OF ACTION**
25 **PRIVATE ATTORNEYS GENERAL ACT**
26 **(As to all Defendants)**

27 78. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 77 as though fully
28 set forth herein.

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1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
5. As to the Fourth Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
6. As to the Fifth Cause of Action:
 - a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);
 - b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);

1 7. As to the Sixth Cause of Action:

- 2 a. Penalties as provided for in Labor Code section 203 as proven at trial;
- 3 b. Attorney's fees, costs and interest pursuant to California Code of Civil
- 4 Procedure section 1021.5;

5 8. As to the Seventh Cause of Action:

- 6 a. Unpaid reimbursement in an amount to be proven at trial;
- 7 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);

8 9. As to the Eighth Cause of Action:

- 9 a. Penalties as provided for in Labor Code sections 226.3 and 1174 as proven at
- 10 trial;
- 11 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code
- 12 section 226(e);

13 10. As to the Ninth Cause of Action:

- 14 a. Wages in an amount to be proven at trial;
- 15 b. Attorney's fees, costs and interest pursuant to California Code of Civil
- 16 Procedure section 1021.5;

17 11. As to the Tenth Cause of Action:

- 18 a. Restitution of unpaid wages and premiums in an amount to be proven at trial;
- 19 b. Interest for the wages due pursuant to California Labor Code section 1194
- 20 c. Attorney's fees, costs and interest pursuant to California Code of Civil
- 21 Procedure section 1021.5;

22 12. As to the Eleventh Cause of Action:

- 23 a. For civil penalties as provided for in the Labor Code for each enumerated
- 24 violation;
- 25 b. For those Labor Code sections, the violation of which there is no civil penalty
- 26 provided, the default penalty provided in Labor Code section 2699(f): for any
- 27 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
- 28

1 period; For any subsequent violation, two hundred dollars (\$200) for each
2 aggrieved employee per pay period;

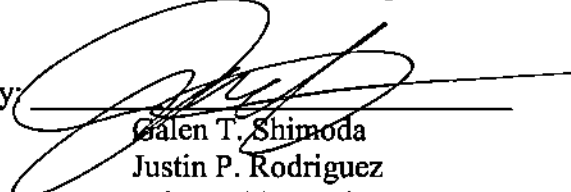
- 3 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
4 d. For any other remedies as allowed by law and/or deemed appropriate by the
5 Court;

6 13. For such other and further relief as this Court may deem just and proper,
7 including, but not limited to:

- 8 a. Wages as proved at trial;
9 b. Injunctive and Declaratory relief;
10 c. Attorney's fees and costs as provided for by law; and
11 d. Interest.

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13 Dated: September 14, 2021

Shimoda Law Corp.

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15 By: 

16 Galen T. Shimoda
17 Justin P. Rodriguez
18 Brittany V. Berzin
19 Jessica L. Hart
20 Attorneys for Plaintiff
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