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

RODOLFO ARROYO, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

TD CONTRACTING, INC., a California
corporation; and DOES 1 through 100,

Defendants.

Case No.: VCU286873
Amended as a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)

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

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, AND 1197);**
- (2) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 551, 552, 558,
1194, AND 1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512);**
- (4) **FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS
EXPENSES (LABOR CODE § 2802);**
- (5) **FAILURE TO PROVIDE
ACCURATE, ITEMIZED WAGE
STATEMENTS (LABOR CODE
§ 226 *et seq.*);**
- (6) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); AND**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Rodolfo Arroyo ("Plaintiff"), on behalf of himself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint ("FAC")
3 against TD Contracting, Inc., a California corporation; Wawona Farm Co., LLC, a California
4 limited liability company; Gerawan Farming, LLC, a California limited liability company; and
5 DOES 1 to 100, (collectively "Defendants"), and on information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 FAC for recovery of unpaid wages and penalties under California Business & Professions Code
9 § 17200 *et seq.*, Labor Code §§ 201-205, 226 *et seq.*, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2,
10 1197, 1198, 2802, and 2698 *et seq.*; and Industrial Welfare Commission Wage Order 14 ("Wage
11 Order 14"), in addition to seeking declaratory relief and restitution. This Complaint is brought
12 pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
13 Defendants' violations of the California Labor Code because the amount in controversy exceeds
14 this Court's jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
17 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
18 County of Tulare. One or more of the Defendants own, maintain offices, transact business, have
19 agent(s) within the County of Tulare, and/or otherwise are found within the County of Tulare,
20 and Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was and currently is, a California resident. During the four years immediately preceding
24 the filing of the Complaint in this action and within the statute of limitations periods applicable
25 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
26 employee. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of
27 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
28 §§ 201-205, 226 *et seq.*, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, and 2698

1 *et seq.*; California Business & Professions Code § 17200 *et seq.* (“Unfair Competition Law”); and
2 Wage Order 14, which sets employment standards for Agricultural Occupations.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
5 continue to do) business by employing seasonal farm labor employees to harvest agricultural
6 commodities in the United States, and employed Plaintiff and other, similarly-situated non-
7 exempt employees within Tulare County and the state of California and, therefore, were (and are)
8 doing business in Tulare County and the State of California.

9 5. Plaintiff does not know the true names or capacities, whether individual, partner,
10 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
11 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
12 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
13 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
14 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
15 and proximately caused Plaintiff and the Classes (as defined herein) to be subject to the unlawful
16 employment practices, wrongs, injuries and damages complained of herein.

17 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
18 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

19 7. At all times herein mentioned, each of said Defendants participated in the doing
20 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
21 Defendants, and each of them, were the agents, servants, and employees of each and every one of
22 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
23 were acting within the course and scope of said agency and employment. Defendants, and each
24 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
25 omissions complained of herein.

26 8. At all times mentioned herein, Defendants, and each of them, were members of
27 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
28 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
2 members of the Classes.

3 9. Wawona Farm Co., LLC and/or Gerawan Farming, LLC (collectively "Garawan")
4 are also jointly liable with Defendant TD Contracting, Inc. for all civil legal responsibility and
5 civil liability for the payment of wages, including all sums payable to an employee or the state of
6 California based upon any failure to pay wages, pursuant to Labor Code §2810.3.

7 GENERAL FACTUAL ALLEGATIONS

8 10. Defendants are in the agricultural business and employ seasonal farm labor
9 employees to harvest agricultural goods. Plaintiff was employed with Defendants as a non-exempt
10 farm labor employee on a seasonal basis from approximately January 2020 until approximately
11 May 22, 2020, when he sustained a job-related injury. Plaintiff's job duties generally included
12 thinning/pruning peach trees and picking peaches from said trees. Plaintiff was credited with
13 working approximately between 8.0 and 8.5 hours per day Monday through Saturday, and was
14 credited for working approximately 5.0 hours on those occasions where he worked on Sundays.
15 However, as discussed below, Plaintiff's foreperson recorded Plaintiff's hours in a manner that
16 was not reflective of the actual amount of hours worked. During Plaintiff's employment with
17 Defendants he performed work for Gerawan. As such, Gerawan are jointly liable with Defendants
18 for all civil legal responsibility and civil liability for the payment of wages, including sums payable
19 to an employee or the state of California based upon any failure to pay wages, pursuant to Labor
20 Code §2810.3. Neither Defendants, nor Gerawan boarded or lodged Plaintiff during his
21 employment.

22 11. Defendants failed to record employees' total hours worked each workday
23 accurately. For example, Defendants' foreperson would maintain timecards for all aggrieved
24 employees, but on information and belief, such timecards did not accurately reflect the times that
25 employees began and ended each workday. While often Plaintiff and other aggrieved employees
26 would begin their duties prior to the start of their scheduled shifts and after the end of their
27 scheduled shifts, their wage statements would always reflect that they worked from either exactly
28 6:30 a.m. until exactly either 3:30 p.m. or 4:00 p.m., despite them in reality frequently starting

1 and/or finishing their shifts several minutes before or after their timecards reflected that they did.
2 This occurred presumably because Plaintiff and other aggrieved employees' wage statements
3 were based on time records that were prepared by TD's foreperson, which inaccurately listed
4 Plaintiff and other aggrieved employees only worked exactly 8.0 or 8.5 hours per workday. As a
5 result, Defendants failed to ensure that Plaintiff and other aggrieved employees were being paid
6 at least the minimum wage for all hours actually worked, and failed to ensure that Plaintiff and
7 other aggrieved employees received proper overtime wages for all overtime hours worked, in
8 compliance with Wage Order 14. Furthermore, despite frequently working on Sundays, upon
9 information and belief, Plaintiff and other aggrieved employees were not properly compensated
10 overtime for time the hours worked on their seventh day worked in violation of Wage Order 14 §
11 3(A)(1).

12 12. Defendants did not provide Plaintiff with lawful meal periods due to their uniform
13 and unlawful practice to not provide adequate shade for Plaintiff and other aggrieved employees
14 during their meal periods in violation of Labor Code § 226.7 and California Code of Regulations,
15 Title 8, Section 3395. Instead, Plaintiff and other aggrieved employees were made to exercise
16 the use of their meal periods under the sparse shade of a tree at the farms they performed work at.
17 Moreover, Defendants failed to always provide timely first meal periods. Despite Defendants'
18 failures to ensure that Plaintiff and other aggrieved employees were provided with adequate
19 shade, if it provided meal periods at all, in the scorching heat of their workplace, Defendant never
20 provided Plaintiff and other aggrieved employees with an hour of pay at their regular rate for each
21 meal period violation as required by Labor Code § 226.7.

22 13. Defendants failed to adequately reimburse Plaintiff and other aggrieved employees
23 for all reasonable and necessary work expenditures, including but not limited to, requiring
24 Plaintiff and other aggrieved employees to purchase and maintain pruning shears without
25 reimbursement.

26 14. As a result of Defendants failure to accurately compensate Plaintiff and other
27 aggrieved employees for all minimum and overtime wages, and failure to provide all legally
28 compliant meal periods or pay premium pay in lieu thereof, Defendant has maintained inaccurate

1 payroll records, failed to timely pay all wages owed to separating employees at the time of their
2 separation, and issued inaccurate wage statements. Furthermore, Defendant maintains a
3 policy/practice of issuing facially inaccurate wage statements in violation of Labor Code §
4 226(a)(8) by failing to include the full legal address of the employer entity. For example, the
5 wage statements issued to Plaintiff and other aggrieved employees listed Defendants' address as
6 "37773 Rd 76, Dinuba, CA 93618", while their legal address as listed on the California Secretary
7 of State website is "968 Sierra Street #388, Kingsburg, CA 93631" and their legal address listed
8 on their Farm Labor Contractor license is "39879 Road 36, Kingsburg, CA 93631." Moreover,
9 the wage statements failed to provide the name and address of the legal entity that secured the
10 services of farm labor contractor, e.g. Wawona Farm Co. LLC and instead listed the name as
11 "Wawona" which is not a legal entity.

12 15. Additionally, Defendants are a farm labor contractor subject to the requirements
13 of Labor Code § 205, which requires that employees be paid weekly, on a business day designated
14 in advance, for all wages earned up to and including the fourth day before the scheduled payday.
15 However, Defendants pays its employees on a delay of five days or more, in violation of the
16 "fourth day" requirement found in Labor Code § 205. However, while Defendants' paystubs
17 indicate that they paid their employees on Thursdays (and thus in compliance with Labor Code §
18 205), in practice Plaintiff and other aggrieved employees did not receive payment until at least
19 Saturdays, in violation of Labor Code § 205.

20 CLASS ACTION ALLEGATIONS

21 16. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
22 following Classes pursuant to § 382 of the Code of Civil Procedure:

23 a. The Minimum Wage Class consists of all current and former non-exempt
24 employees of Defendants in California that were compensated on a piece-rate or
25 hourly basis during the four years immediately preceding the filing of this lawsuit
26 through the present.

27 b. The Overtime Wage Class consists of all current and former non-exempt
28 employees of Defendants in California who worked overtime hours (based on

criteria set forth in Wage Order 14) during the four years immediately preceding the filing of this lawsuit through the present.

c. The Meal Period Class consists of all current and former non-exempt employees of Defendants in California in California who: (i) worked at least one shift in excess of 5.0 hours without a meal period of at least 30 minutes in duration commencing prior to the conclusion of the fifth hour of work, and who do not have a corresponding meal period premium payment made for such shifts during the four years preceding the filing of this lawsuit through the present.

d. The Employee Expense Class consists of all of Defendants in California who were not reimbursed for the purchase and maintenance of tools necessary for the performance of their job duties during the four years immediately preceding the filing of this lawsuit to the present.

e. The Wage Statement Class consists of all members of the Minimum Wage Class, Overtime Class, and Meal Period Class who received a wage statement from Defendants during the one year immediately preceding the filing of this lawsuit through the present.

f. The Waiting Time Class consists of all Defendants formerly employed members of the Minimum Wage Class, Overtime Class, and Meal Period Class who separated from employment during the three years immediately preceding the filing of this lawsuit through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members. Those

1 common questions include, without limitation:

- 2 i. Whether Defendants paid all minimum wages owed for all hours worked to
3 members of the Minimum Wage Class pursuant to Labor Code §§ 118.2, 1194,
4 1194.2, and 1197;
- 5 ii. Whether Defendants violated the applicable Labor Code provisions, including, but
6 not limited to, §§ 510 and 1194 and Wage Order 14 by requiring members of the
7 Overtime Wage Class to perform overtime work and not paying for said work in
8 accordance with the overtime laws of the State of California;
- 9 iii. Whether Defendants' timekeeping policies/practices resulted in the failure to
10 properly compensate members of the Minimum Wage Class;
- 11 iv. Whether Defendants provided all legally compliant meal periods to members of
12 the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- 13 v. Whether Defendants failed to reimburse members of the Employee Expense Class
14 for business expenditures necessarily incurred in the performance of their duties;
- 15 vi. Whether Defendants provided accurate, itemized wage statements to members of
16 the Classes; and
- 17 vii. Whether Defendants' policies and/or practices for the timing and amount of
18 payment of final wages to members of the Waiting Time Class at the time of
19 separation from employment were lawful.

20 19. **Predominance of Common Questions:** Common questions of law and fact
21 predominate over questions that affect only individual members of the Classes. The common
22 questions of law set forth above are numerous and substantial and stem from Defendants' policies
23 and/or practices applicable to each individual class member, such as Defendants' uniform
24 timekeeping policies and practices, meal period policies and practices, non-reimbursement
25 policies and practices, wage statement policies and practices, and the policies and practices
26 regarding the timely payment of final wages. As such, the common questions predominate over
27 individual questions concerning each individual class member's showing as to his or her
28 eligibility for recovery or as to the amount of his or her damages.

1 20. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
2 Plaintiff was employed by Defendants as a non-exempt employee in California during the
3 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
4 herein, Plaintiff, like the members of the Classes, was subject to Defendants' meal period and
5 timekeeping policies and practices, was subjected to Defendants' unlawful failure to reimburse
6 business expenses, was provided inaccurate wage statements, and was not paid all wages earned
7 at the time of his separation of employment.

8 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
9 to represent fairly and adequately the interests of the members of the Classes. Moreover,
10 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
11 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
12 and-hour class actions in state and federal courts in the past and are committed to vigorously
13 prosecuting this action on behalf of the members of the Classes.

14 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
15 an important public interest in establishing minimum working conditions and standards in
16 California. These laws and labor standards protect the average working employee from
17 exploitation by employers who have the responsibility to follow the laws and who may seek to
18 take advantage of superior economic and bargaining power in setting onerous terms and
19 conditions of employment. The nature of this action and the format of laws available to Plaintiff
20 and members of the Classes make the class action format a particularly efficient and appropriate
21 procedure to redress the violations alleged herein. If each employee were required to file an
22 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
23 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
24 their vastly superior financial and legal resources. Moreover, requiring each member of the
25 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
26 employees who would be disinclined to file an action against their former and/or current employer
27 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
28 employment. Further, the prosecution of separate actions by the individual class members, even

1 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
2 with respect to the individual class members against Defendants herein; and which would
3 establish potentially incompatible standards of conduct for Defendants; and/or legal
4 determinations with respect to individual class members which would, as a practical matter, be
5 dispositive of the interest of the other class members not parties to adjudications or which would
6 substantially impair or impede the ability of the class members to protect their interests. Further,
7 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
8 individual prosecution considering all of the concomitant costs and expenses attending thereto.
9 As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of
10 Civil Procedure.

11 **FIRST CAUSE OF ACTION**

12 **MINIMUM WAGE VIOLATIONS**

13 **(AGAINST ALL DEFENDANTS)**

14 23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

15 24. Wage Order 14, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
16 right of employees to be paid minimum wages for all hours worked in amounts set by state law.
17 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
18 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
19 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
20 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform
21 their pay practices to the requirements of the law by failing to pay Plaintiff and the Minimum
22 Wage Class for all hours actually worked including, but not limited to, all hours they were subject
23 to the control of Defendants and/or suffered or permitted to work under the California Labor Code
24 and Wage Order 14.

25 25. California Labor Code § 1198 makes unlawful the employment of an employee
26 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
27 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
28 those employees the balance of the unpaid wages as well as liquidated damages in an amount

1 equal to the wages due and interest thereon.

2 26. As a direct and proximate result of Defendants' unlawful conduct as alleged
3 herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but
4 not limited to, unpaid wages and lost interest in an amount to be established at trial, and they are
5 entitled to recover economic and statutory damages and penalties and other appropriate relief as
6 a result of Defendants' violations of the California Labor Code and Wage Order 14.

7 27. Defendants' practice and uniform administration of corporate policy regarding
8 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
9 members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages,
10 liquidated damages, including interest thereon, statutory penalties, and attorneys' fees and costs
11 of suit according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of
12 Civil Procedure § 1021.5.

13 **SECOND CAUSE OF ACTION**

14 **FAILURE TO PAY ALL OVERTIME WAGE**

15 **(AGAINST AL DEFENDANTS)**

16 28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

17 29. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
18 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
19 overtime hours worked, and provide a private right of action for the failure to pay all overtime
20 compensation for overtime work performed.

21 30. At all times relevant herein, Defendants were required to properly compensate
22 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
23 Labor Code § 1194 and Wage Order 14. Wage Order 14, § 3 requires an employer to pay overtime
24 wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth
25 in the Wage Order.

26 31. At all times relevant herein, Defendants caused Plaintiff and other non-exempt
27 employees to work overtime hours but did not compensate Plaintiff or members of the Overtime
28 Class at one and one-half times their regular rate of pay for such hours.

1 32. The foregoing policies and practices are unlawful and create entitlement to
2 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
3 premiums owing, including interest thereon, statutory and civil penalties, and attorneys' fees and
4 costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order
5 14, and Code of Civil Procedure § 1021.5.

6 **THIRD CAUSE OF ACTION**

7 **MEAL PERIOD VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

9 33. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 failed in their affirmative obligation to provide all of their non-exempt employees in California,
12 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
13 in accordance with the mandates of the California Labor Code and Wage Order 14, § 11. Despite
14 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members
15 of the Meal Period Class at their respective regular rates of compensation, in accordance with
16 California Labor Code §§ 226.7, and 512.

17 35. As a result, Defendants are responsible for paying premium compensation for meal
18 period violations including interest thereon, as well as statutory penalties, civil penalties, and
19 costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 14, and Civil Code §§
20 3287(b) and 3289.

21 **FOURTH CAUSE OF ACTION**

22 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

23 **(AGAINST ALL DEFENDANTS)**

24 36. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 37. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
26 states that "an employer shall indemnify his or her employees for all necessary expenditures or
27 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
28 his or her obedience to the directions of the employer..."

1 38. Due to Defendants' unlawful policy and practice of requiring employees to
2 purchase and maintain tools necessary for the performance of their job duties, Defendants have
3 violated Labor Code § 2802.

4 39. Plaintiff and members of the Employee Expense Class are entitled to attorneys'
5 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

6 40. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
7 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
8 Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue
9 from the date on which they incurred the initial necessary expenditure.

10 **FIFTH CAUSE OF ACTION**

11 **WAGE STATEMENT VIOLATIONS**

12 **(AGAINST ALL DEFENDANTS)**

13 41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

14 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiff
16 and the Wage Statement Class with accurate, itemized wage statements that included, among other
17 requirements, meal period premiums, the proper legal address of the employer entity as well as the
18 legal names and address of the client-employer farm entities in violation of Labor Code §226 *et*
19 *seq.*

20 43. Defendants' failure to furnish Plaintiff and the members of the Wage Statement
21 Class with complete and accurate, itemized wage statements resulted in actual injury, as said
22 failures led to, among other things, the non-payment of all minimum wages, overtime wages, and
23 meal period premiums, and deprived them of the information necessary to identify discrepancies
24 in Defendants' reported data as well as the information necessary to identify the unnamed DOE
25 Defendants.

26 44. Defendants' failures created an entitlement to Plaintiff and members of the Wage
27 Statement Class in a civil action for damages and/or penalties pursuant to Labor Code § 226,
28 including statutory penalties civil penalties, reasonable attorneys' fees, and costs according to suit

1 pursuant to Labor Code § 226 *et seq.*

2 **SIXTH CAUSE OF ACTION**

3 **WAITING TIME PENALTIES**

4 **(AGAINST ALL DEFENDANTS)**

5 45. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

6 46. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
7 an employer to pay all wages immediately at the time of termination of employment in the event
8 the employer discharges the employee or the employee provides at least 72 hours of notice of
9 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
10 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
11 employee's last date of employment.

12 47. Defendants failed to timely pay Plaintiff and members of the Waiting Time Class
13 all final wages due to them at the time of their separation including, among other things, underpaid
14 overtime and minimum wages owed, and meal period premium wages. Further, Plaintiff is
15 informed and believes, and based thereon alleges, that as a matter of uniform policy and practice,
16 Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the end
17 of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.
18 Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

19 48. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
20 Time Class their earned wages upon separation from employment results in a continued payment
21 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
22 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
23 plus reasonable attorneys' fees and costs of suit.

24 **SEVENTH CAUSE OF ACTION**

25 **UNFAIR COMPETITION**

26 **(AGAINST ALL DEFENDANTS)**

27 49. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

28 50. Defendants have engaged and continue to engage in unfair and/or unlawful business

1 practices in California in violation of California Business and Professions Code § 17200 *et seq.*,
2 by failing to pay Plaintiff and the Classes all overtime and minimum wages, failing to provide all
3 legally compliant meal periods, failing to pay meal premium payments, failing to reimburse for
4 necessary business expenditures, failing to furnish accurate wage statements, and willfully failing
5 to timely pay Plaintiff and members of the Waiting Time Class all final wages upon separation of
6 employment.

7 51. Defendants' utilization of these unfair and/or unlawful business practices deprived
8 Plaintiff and continues to deprive members of the Classes of compensation to which they are
9 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
10 over Defendants' competitors who have been and/or are currently employing workers and
11 attempting to do so in honest compliance with applicable wage and hour laws.

12 52. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
13 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of
14 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
15 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

16 53. The acts complained of herein occurred within the last four years immediately
17 preceding the filing of the Complaint in this action.

18 54. Plaintiff was compelled to retain the services of counsel to file this court action to
19 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of
20 Defendants' current non-exempt employees, and to enforce important rights affecting the public
21 interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he
22 is entitled to recover under Code of Civil Procedure § 1021.5.

23 **EIGHTH CAUSE OF ACTION**

24 **PRIVATE ATTORNEYS GENERAL ACT**

25 **(AGAINST ALL DEFENDANTS)**

26 55. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

27 56. Defendants have committed several Labor Code violations against Plaintiff and
28 other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor

1 Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this
2 representative action against Defendants to recover the civil penalties due to Plaintiff, other
3 aggrieved employees, and the State of California according to proof pursuant to Labor Code §
4 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
5 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
6 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
7 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
8 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
9 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
10 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
11 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
12 each initial violation and \$200 for each subsequent violation per employee per pay period for
13 those violations of the Labor Code for which no civil penalty is specifically provided, based on
14 the following Labor Code:

15 a. Failing to pay minimum wages for all hours worked to Plaintiff, the
16 Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 558,
17 1182.12, 1194, 1194.2, 1197, and 1198;

18 b. Failing to pay Plaintiff, the Overtime Wage Class, and other aggrieved
19 employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558,
20 1194, and 1198;

21 c. Failing to provide all legally required meal periods, and failure to pay meal
22 period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees
23 at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and
24 1198;

25 d. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved
26 employees with complete, accurate, itemized wage statements in violation of Labor Code
27 § 226;

28 e. Failing to timely pay all final wages and compensation earned by Plaintiff,

1 the Waiting Time Class, and other aggrieved employees at the time of separation in
2 violation of Labor Code §§ 201, 202, and 203;

3 f. Failing to reimburse Plaintiff, the Employee Expense Class, and other
4 aggrieved employees for all necessary work expenses incurred in violation of Labor Code
5 §§ 2802 and 2804.

6 g. Failing to pay non-exempt employees all earned wages at least twice
7 during each calendar month in violation of Labor Code § 204;

8 h. Failing to compensate Plaintiff and other aggrieved employees at least
9 once per week on a business day designated in advance and including all wages earned up
10 to and including the fourth day before such payday in violation of Labor Code § 205; and

11 i. Failing to maintain accurate records on behalf of Plaintiff and other
12 aggrieved employees in violation of Labor Code § 1174.

13 57. On April 22, 2021, Plaintiff notified Defendants via certified mail, and notified the
14 California Labor and Workforce Development Agency (“LWDA”) via its website, of
15 Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for
16 civil penalties under California Labor Code § 2698 et seq. with respect to violations of the
17 California Labor Code identified in Paragraph 56 (a)-(i). Now that sixty-five days have passed
18 from Plaintiff’s notifying Defendants and the LWDA of these violations, and the LWDA has not
19 provided notice that it intends to investigate the violations, Plaintiff has exhausted his
20 administrative requirements for bringing a claim under the Private Attorneys General Act with
21 respect to these violations.

22 58. Plaintiff was compelled to retain the services of counsel to file this court action to
23 protect his interests and the interests of other similarly aggrieved employees, and to assess and
24 collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and
25 costs, which he is entitled to receive under California Labor Code § 2699(g).

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28 ///

1 **PRAYER**

2 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
3 this suit is brought against Defendants, as follows:

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
8 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
9 1197;
- 10 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
11 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 12 6. Upon the Third Cause of Action, for compensatory, consequential, general and
13 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 14 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
15 special damages according to proof pursuant to Labor Code § 2802;
- 16 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
17 226, *et seq.*
- 18 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
19 Labor Code § 201-205;
- 20 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
21 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
22 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*
23 *seq.*;
- 24 11. Upon the Eighth Cause of Action, (1) \$100.00 for each initial violation for each
25 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
26 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
27 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
28 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial

1 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
2 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
3 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
4 each initial violation and \$200 for each subsequent violation per employee per pay period for the
5 violations of the Labor Code Sections cited in Labor Code § 2699.5.

6 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor
7 Code § 218.6 and Civil Code §§ 3287 and 3289;

8 13. On all causes of action, for attorneys' fees and costs as provided by Code of Civil
9 Procedure § 1021.5 and all other applicable statutes; and

10 14. For such other and further relief the Court may deem just and proper.

11
12 Dated: June 28, 2021

Respectfully submitted,
STANBURY BROWN LAW

13
14 By:



Daniel J. Brown
Ethan C. Surls
Attorneys for Plaintiff

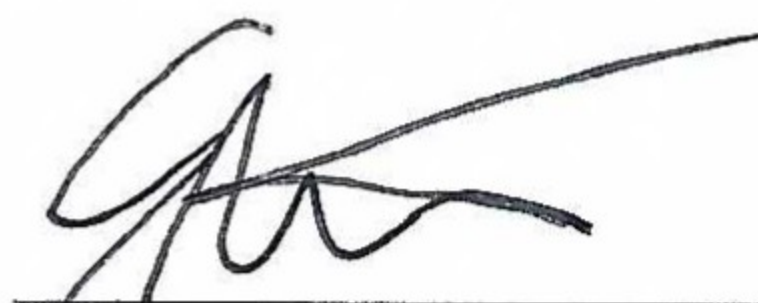
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16
17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

19
20 Dated: June 28, 2021

Respectfully submitted,
STANBURY BROWN LAW

21
22 By:



Daniel J. Brown
Ethan C. Surls
Attorney for Plaintiff