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Attorneys for Plaintiff Emmanuel Wright
and the Putative Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
CENTRAL JUDICIAL DISTRICT**

EMMANUEL WRIGHT, individually, in his
representative capacity, and on behalf of all
others similarly situated,

Plaintiff,

v.

HOME BOX OFFICE, INC.; PLANE MEETS
PAPER PRODUCTIONS, LLC; and DOES 1
through 50, inclusive,

Defendants.

FILED
Superior Court of California
County of Los Angeles

04/17/2023

David W. Slayton, Executive Officer / Clerk of Court

By: D. Tamayo Deputy

Case No.: 21STCV19636
The Hon. Maren Nelson, Dept. 17

FOURTH AMENDED COMPLAINT

- (1) Failure to Pay Minimum Wages
- (2) Failure to Pay Overtime Wages
- (3) Failure to Provide Meal Breaks
- (4) Failure to Provide Rest Breaks
- (5) Waiting Time Penalties
- (6) Failure to Provide Itemized Wage Statements
- (7) Unlawful and Unfair Business Practices
- (8) PAGA Penalties Pursuant to Labor Code § 2699, *et seq.*

Complaint Filed: May 24, 2021
Trial Date: None Set

1 Plaintiff Emmanuel Wright (“Plaintiff”), individually, in his representative capacity, and
2 on behalf of all others similarly situated, hereby alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff submits this class action on behalf of all other similarly situated current
5 and former misclassified non-exempt employees of Home Box Office, Inc. (“HBO”), Plane
6 Meets Paper Productions, LLC (“Plane Meets Paper Productions”), and DOES 1 through 50,
7 inclusive (each, a “Defendant” and together, “Defendants”).

8 2. Plaintiff alleges that Defendants failed to comply with California’s labor laws that
9 protect employees by requiring Plaintiff and the putative class members to self-quarantine at a
10 designated hotel prior to working on the set. Plaintiff seeks penalties, interest, attorneys’ fees,
11 costs and expenses, and equitable restitutionary and injunctive relief.

12 3. Plaintiff, on behalf of himself and all aggrieved employees presently or formerly
13 employed by Defendants during the liability period, also brings this representative action
14 pursuant to Labor Code 2699, *et seq.* seeking penalties for Defendants’ violation of California
15 Labor Code as alleged herein.

16 **JURISDICTION AND VENUE**

17 4. The Superior Court of the State of California has jurisdiction in this matter
18 because Plaintiff is a resident in the State of California and Defendants are qualified to do
19 business in and regularly conduct business in California. Further, no federal question is at issue
20 because the claims are based solely on California law.

21 5. Venue is proper in this judicial district and the County of Los Angeles, California,
22 because Plaintiff, and other persons similarly situated, performed work for Defendants in the
23 County of Los Angeles, Defendants maintain offices and facilities and transact business in the
24 County of Los Angeles, and Defendants’ illegal policies and practices that are the subject of this
25 action were applied, at least in part, to Plaintiff and other persons similarly situated in the County
26 of Los Angeles.

27 **THE PARTIES**

28 6. Plaintiff is an individual residing in the State of California. Plaintiff worked for

1 Defendants as a non-exempt employee during the statutory period.

2 7. On information and belief, HBO is now, and at all times mentioned in this
3 complaint, was, a corporation organized and existing under the laws of the State of Delaware
4 and qualified to do business in California.

5 8. On information and belief, Plant Meets Paper Productions is now, and at all times
6 mentioned in this complaint, was, a corporation organized and existing under the laws of the
7 State of California and qualified to do business in California.

8 9. Plaintiff does not know the true names or capacities, whether individual, partner,
9 or corporate, of Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
10 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
11 complaint when the true names and capacities are known. Plaintiff is informed and believes and
12 thereon alleges that each of Defendants designated as a DOE was responsible in some way for
13 the matters alleged herein and proximately caused Plaintiff and members of the general public
14 and the Class to be subject to the illegal employment practices, wrongs, and injuries complained
15 of herein.

16 10. Plaintiff is informed and believes and based thereon alleges that at all times
17 material to this complaint, Defendants were the joint employers of Plaintiff and the putative class
18 members. Defendants directly or indirectly, itself or through its agents, employed or exercised
19 control over the wages, hours, and/or working conditions of the Plaintiff and the putative class
20 members and/or had the right to control the manner or means of accomplishing the result desired.
21 Moreover, Defendants had the power to prevent, but failed to prevent, the violations articulated
22 herein from occurring, despite their knowledge of the same.

23 11. Plaintiff is informed and believes and based thereon alleges that at all times
24 material to this complaint, Defendants were the alter egos, divisions, affiliates, integrated
25 enterprises, subsidiaries, parents, principals, related entities, co-conspirators, authorized agents,
26 partners, joint venturers, and/or guarantors, actual or ostensible, of each other. Each Defendant
27 was completely dominated by his, her, or its co-Defendant, and each was the alter ego of the
28 other.

1 12. Plaintiff is informed and believes and based thereon alleges that each and every
2 one of the acts and omissions alleged herein were performed by, and/or attributable to, all
3 Defendants, each acting as agents and/or employees, and/or under the direction and control of,
4 each of the other Defendants, and that said acts and failures to act were within the course and
5 scope of said agency, employment, and/or direction and control.

6 13. At all relevant times herein, Plaintiff and the putative class members were
7 employed by Defendants under employment agreements that were partly written, partly oral,
8 and/or partly implied. In perpetrating the acts and omissions alleged herein, Defendants, and
9 each of them, acted pursuant to, and in furtherance of, their policies and practices of not paying
10 Plaintiff and the putative class members all wages earned and due, though methods and schemes
11 that include, but are not limited to, failing to pay overtime premiums, failing to provide meal and
12 rest breaks and/or compensation therefor, failing to properly maintain records, and failing to
13 provide accurate itemized statements for each pay period in violation of California Labor Code
14 and the applicable Industrial Welfare Commission (“IWC”) Wage Order.

15 **ALLEGATIONS COMMON TO AT LEAST ONE CAUSE OF ACTION**

16 14. On information and belief, HBO is the parent company of various production
17 companies, including Plane Meets Paper Productions. Plane Meets Paper Productions employed
18 Plaintiff as background talent to appear in the show *Insecure*. Plaintiff alleges that he was jointly
19 employed by HBO and Plane Meets Paper Productions.

20 15. During the COVID-19 pandemic, HBO implemented a policy (the “HBO
21 Quarantine Policy”) that required its affiliated production companies, including Plane Meets
22 Paper Productions, and the employees of its affiliated production companies, including Plaintiff,
23 to quarantine at designated hotels prior to working on the production set. In order to ensure
24 compliance with the HBO Quarantine Policy, HBO employed COVID teams to monitor Plaintiff
25 and the other background talent around the clock at the quarantine location. The HBO COVID
26 teams informed the background talent that anyone who failed to comply with the HBO
27 Quarantine Policy would be prohibited from working on the production set.

28 16. Pursuant to the HBO Quarantine Policy, Plaintiff was required to quarantine at

1 the Burbank Marriott Hotel for five consecutive days prior to the shoot and could only order
2 food from a designated restaurant, which was delivered directly to his room and could only be
3 consumed within it. In the few instances where Plaintiff was allowed to leave his room, he could
4 only do so with prior approval from HBO's COVID team with an assigned chaperone (who was
5 one of the quarantine staff). The HBO Quarantine Policy also required Plaintiff to proceed
6 directly to the *Insecure* set to perform his work duties immediately after the conclusion of the
7 quarantine period.

8 17. On April 4, 2021, Plaintiff reported to the Burbank Marriott Hotel to start his
9 mandatory quarantine. Plaintiff was promised \$300 for each day in quarantine. While in
10 quarantine, Plaintiff completed the online COVID-19 compliance training, set up his "COVID-
11 19 Passcard" and related questionnaire, and set up his "Payroll Wizard" on the RABS
12 Application..

13 18. Plaintiff continued to quarantine at the Burbank Marriott Hotel until he was
14 dismissed on the morning of March 9, 2022 and ordered to drive directly to the set of the *Insecure*
15 shoot to complete his job duties. At the *Insecure* set, Plaintiff worked over twelve hours at the
16 promised rate of \$120 for 8 hours of work. Plaintiff worked continuously from April 4, 2021
17 through April 9, 2021 with no meal or rest break.

18 19. Defendants failed to compensate Plaintiff at the statutory minimum wage and
19 failed to compensate Plaintiff for his overtime pay and his meal and rest break premiums. As a
20 result of Defendants' violations of California law, Plaintiff was denied his fundamental
21 employment rights, including but not limited to, the right to minimum and overtime wages, the
22 right to lawful meal and rest breaks (or compensation therefor), the right to prompt payment of
23 full wages upon termination of employment, and the right to accurate, itemized wage statements.

24 **CLASS ACTION ALLEGATIONS**

25 20. Plaintiff seeks to represent the following classes¹ for the period from four years
26 from the filing of this lawsuit through the final disposition of this lawsuit (the "Class Period"):

27 **The "Quarantine Class":** All non-exempt and non-union employees of Plane
28

¹ The four classes shall be referred collectively as the "Class" or "Class Members."

1 Meets Paper Productions and/ or HBO who quarantined in California.

2 21. Within the class above, Plaintiff seeks to pursue claims on behalf of the following
3 subclasses:

4 a. **Minimum Wage Subclass:** all current and former non-exempt and non-
5 union employees who worked one or more shifts and were not paid their
6 minimum wages;

7 b. **Overtime Subclass:** all current and former non-exempt and non-union
8 employees who worked one or more shifts in excess of eight (8) hours in
9 a day or forty (40) hours in a workweek;

10 c. **Meal Period Subclass:** all current and former non-exempt and non-union
11 employees who worked one or more shifts in excess of five (5) hours;

12 d. **Rest Break Subclass:** all current and former non-exempt and non-union
13 employees who worked one or more shifts in excess of three and one-half
14 (3.5) hours;

15 e. **Waiting Time Penalty Subclass:** all former non-exempt and non-union
16 employees who separated from their employment with Defendants at any
17 time during the Class Period; and

18 f. **Wage Statement Subclass:** all current and former non-exempt and non-
19 union employees who received a payment of wages at any time during the
20 Class Period.

21 22. The potential class is of a significant number. Joinder of all current and former
22 employees individually would be impracticable.

23 23. Plaintiff's claims are typical of the claims of the class because Defendants
24 uniformly subjected all non-exempt and non-union employees to the same violations of the
25 Labor Code, the applicable IWC Wage Order, and the Business and Professions Code.

26 24. This action involved common questions of law and fact because the action
27 focuses on Defendants' systematic course of illegal policies and practices, which were applied
28 to all non-union and non-exempted employees in violation of the Labor Code, the applicable

1 IWC Wage Order, and the Business and Professions Code, which prohibits unfair business
2 practices arising from such violations.

3 25. Plaintiff will fairly and adequately protect the interests of all Class Members.

4 **PAGA ALLEGATIONS**

5 26. Plaintiff brings this action pursuant to the Private Attorneys General Act of 2004
6 (“PAGA”), California Labor Code § 2698 *et seq.* on a representative basis. All current and
7 former workers and employees of Defendants are aggrieved employees.

8 **ALLEGATIONS RELATING TO DEFENDANTS’ FAILURE TO PAY OVERTIME**

9 **WAGES IN VIOLATION OF LABOR CODE §§ 510 and 1194**

10 27. Defendants failed to maintain a policy that compensates non-exempt employees
11 for all hours worked, including overtime. As described above, Defendants required Plaintiff and
12 the aggrieved employees to self-quarantine for multiple consecutive days in exchange for \$300
13 per day without overtime pay. As a result of the violations of California Labor Code §§ 510 and
14 1194 for failure to pay overtime, Defendants are liable for civil penalties pursuant to California
15 Labor Code §§ 558 and 2698 *et seq.*

16 **ALLEGATIONS RELATING TO DEFENDANTS’ FAILURE TO PAY MINIMUM**

17 **WAGES IN VIOLATION OF LABOR CODE §§ 510, 558, 1194, 1194.2, AND 1197.1**

18 28. Defendants failed to maintain a policy that compensates non-exempt employees
19 an amount equal to or greater than the minimum wage for all hours worked, as required by
20 California Labor Code §§ 1194, 1197.1, 1197. All hours must be paid at the statutory agreed
21 rate and no part of this rate may be used as a credit against a minimum wage obligation. For the
22 reasons explained above, Defendants failed to compensate Plaintiff and the aggrieved workers
23 for each hour they were in days-long quarantine. As such, Defendants have violated Labor Code
24 §§ 1194, 1197.1, 1197.1 for failure to pay minimum wage, Defendants are liable for civil
25 penalties pursuant to California Labor Code §§ 558, 1197.1, and 2698 *et seq.*

26 **ALLEGATIONS RELATING TO DEFENDANTS’ FAILURE TO PROVIDE**

27 **UNINTERRUPTED OFF-DUTY MEAL BREAKS IN VIOLATION OF LABOR CODE**

28 **§§ 226.7, 512, AND 558**

29. Defendants failed to maintain a policy that provides their employees with off-

1 duty meal periods as required by California law. As described above, Defendants required
2 Plaintiff and the aggrieved employees to remain inside their hotel rooms during the entire
3 quarantine period, including during their meal and rest break periods. As a result, Plaintiff and
4 the aggrieved employees regularly worked in excess of five (5) and/or ten (10) hours a day
5 without being provided at least half-hour meal periods in which they were relieved of all duties
6 and free to leave the work site or facility during the meal period, as required by Labor Code §§
7 226.7, 512. Defendants did not pay Plaintiff and other aggrieved employees the premium
8 compensation mandated by Labor Code 226.7(b) for these missed meal periods. As a result of
9 the violations of California Labor Code §§ 226.7 and 512, Defendants are liable for civil
10 penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

11 **ALLEGATIONS RELATING TO DEFENDANTS' FAILURE TO PROVIDE**
12 **UNINTERRUPTED OFF-DUTY REST BREAKS IN VIOLATION OF LABOR CODE**
13 **§§ 226.7, 512, AND 558**

14 30. Defendants failed to maintain a policy that provides their employees with off-
15 duty meal periods as required by California law. As described above, Defendants required
16 Plaintiff and the aggrieved employees to remain inside their hotel rooms during the entire
17 quarantine period, including during their meal and rest breaks. Plaintiff and the aggrieved
18 employees regularly worked in one or more shifts in excess of three and one-half (3.5) hours
19 without being provided at least a ten-minute rest period in which they were relieved of all duties,
20 as required by Labor Code §§ 226.7 and 512. Defendants failed to pay Plaintiff and the aggrieved
21 employees the premium compensation mandated by Labor Code § 226.7(b) for these missed rest
22 periods. As a result of the violations of California Labor Code §§ 226.7 and 512, Defendants
23 are liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

24 **ALLEGATIONS RELATING TO DEFENDANTS' FAILURE TO FURNISH**
25 **ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE §§ 226 and**
26 **226.3**

27 31. Defendants violated California Labor Code § 226(a), which requires that every
28 employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her
employees, an accurate itemized statement in writing showing gross wages earned. For the

1 reasons explained above, Plaintiff and the aggrieved employees never received wage statements
2 that included the gross wages earned, the hours worked, or the rates of pay. As a result of the
3 violations of California Labor Code § 226(a), Defendants are liable for civil penalties pursuant
4 to California Labor Code §§ 226.3 and 2698 *et seq.*

5 **ALLEGATIONS RELATING TO DEFENDANTS' FAILURE TO PAY WAGES UPON**
6 **TERMINATION IN VIOLATION OF LABOR CODE §§ 201-201, 210, and 1194.5**

7 32. Defendants have violated California Labor Code § 203 by willfully failing to pay
8 all compensation due and owing to all former non-exempt employees at the time employment
9 was terminated. Plaintiff and the other aggrieved employees were not paid their overtime pay,
10 minimum wages, and/or meal and rest break premiums. Pursuant to Labor Code §§ 203 and
11 256, the aggrieved employees are entitled to recover up to thirty (30) days of wages due to
12 Defendants' willful failure to comply with the statutory requirements of §§ 201 and 202 of the
13 Labor Code. Additionally, because Defendants violated California Labor Code §§ 201 and 203,
14 Defendants are liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

15 **FIRST CAUSE OF ACTION**

16 **Failure to Pay Minimum Wages**

17 **[Cal. Labor Code §§ 1194, 1194.2, 1197]**

18 **(Against All Defendants by Plaintiff on Behalf of the Class and Subclasses (a), (f), (g))**

19 33. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
20 fully set forth herein.

21 34. During the Class Period, the entire time spent by Plaintiff and the Minimum Wage
22 Subclass during quarantine was compensable. As such, Defendants' payment to Plaintiff and
23 the Minimum Wage Subclass at a daily salary of \$300 falls below the legally required minimum
24 wage.

25 35. As a direct and proximate cause of the aforementioned violation, Defendants
26 failed to pay Plaintiff and the Minimum Wage Subclass the minimum wage for each hour
27 worked. Plaintiff is informed and believes and thereon alleges that Defendants' failure to pay
28 the minimum wage for each hour worked, as described herein, was done willfully.

36. Based on the Defendants' conduct as alleged herein, Defendants are liable for

unpaid minimum wage compensation pursuant to Labor Code sections 1194 and 1197, liquidated damages in an amount equal to the unpaid wages owed to such employees, plus interest.

SECOND CAUSE OF ACTION

Failure to Pay Overtime Wages

[Cal. Labor Code §§ 510, 1194, and 1198]

(Against All Defendants by Plaintiff on Behalf of the Class and Subclasses (b), (f), (g))

37. Plaintiff re-alleges and incorporates by reference the above paragraphs as though fully set forth herein.

38. Pursuant to California Labor Code §§ 510, 1194, and 1198, Defendants are required to compensate Plaintiff and the Overtime Subclass for all overtime at a rate of one and one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and at a rate of twice the regular rate of pay for all hours worked in excess of twelve (12) hours in any workday.

39. During the Class Period, Defendants failed to compensate Plaintiff and the Overtime Subclass for any overtime hours worked as required under the foregoing provisions of the California Labor Code and the applicable IWC Wage Order by, among other things, failing to pay overtime at one and one-half (1½) times or double the regular rate of pay.

40. As a direct and proximate cause of the aforementioned violations, Plaintiff and the Overtime Subclass have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages and lost interest on such wages. Plaintiff and the Overtime Subclass are entitled to recover the unpaid balance of wages owed to them by Defendants, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

THIRD CAUSE OF ACTION

Failure to Provide Meal Periods

[Cal. Labor Code §§ 226.7, 512]

(Against All Defendants by Plaintiff on Behalf of the Class and Subclasses (c), (f), (g))

41. Plaintiff re-alleges and incorporates by reference the above paragraphs as though fully set forth herein.

1 42. During the Class Period, Defendants had, and continue to have, a policy and
2 practice of failing to provide Plaintiff and the Meal Period Subclass duty-free meal periods
3 during quarantine as required by California Labor Code §§ 226.7 and 512.

4 43. As a result of Defendants' policies and practices alleged herein, Plaintiff and the
5 Meal Period Subclass regularly have been denied, and continue to be denied, the opportunity to
6 take full, interrupted, and timely meal periods as required under California law.

7 44. As a direct and proximate cause of the aforementioned violations, Plaintiff
8 and the Meal Period Subclass have sustained economic damages, including but not limited to
9 unpaid wages and lost interest, in an amount according to proof at trial, and are entitled to recover
10 economic and statutory damages and penalties and other appropriate relief due to Defendants'
11 violation of the California Labor Code.

12 **FOURTH CAUSE OF ACTION**

13 **Failure to Authorize and Permit Rest Periods**

14 **[Cal. Labor Code § 226.7]**

15 **(Against All Defendants by Plaintiff on Behalf of the Class and Subclasses (d), (f), (g))**

16 45. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
17 fully set forth herein.

18 46. During the Class Period, Defendants had, and continue to have, a policy and
19 practice of failing to authorize and permit Plaintiff and the Rest Period Subclass to take duty-
20 free rest breaks during quarantine as required by California Labor Code § 226.7.

21 47. As a result of Defendants' policies and practices alleged herein, Plaintiff and the
22 Rest Period Subclass regularly have been denied, and continue to be denied, the opportunity to
23 take full, interrupted, and timely rest periods as required under California Labor Code § 226.7.

24 48. Defendants violated, and continue to violate, California Labor Code § 226.7 by
25 failing to pay Plaintiff and the Rest Period Subclass who were not provided a rest period, in
26 accordance with the applicable Wage Order, one additional hour of compensation at each
27 employee's regular rate of pay for each workday that a rest period was not provided.

28 49. As a direct and proximate cause of the aforementioned violations, Plaintiff and

1 the Rest Period Subclass have sustained economic damages, including but not limited to unpaid
2 wages and lost interest, in an amount according to proof a trial, and are entitled to recover
3 economic and statutory damages and penalties and other appropriate relief due to Defendants'
4 violation of the California Labor Code.

5 **SIXTH CAUSE OF ACTION**

6 **Waiting Time Penalties**

7 **[Cal. Labor Code § 201.5]**

8 **(Against All Defendants by Plaintiff on Behalf of the Class and Subclasses (f) and (g))**

9 50. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
10 fully set forth herein.

11 51. Defendants' failure to pay the Waiting Time Penalty Subclass, who are no longer
12 working for Defendants, all wages owing to former employees was willful.

13 52. As a direct and proximate cause of the aforementioned violations, Plaintiff and
14 the Waiting Time Penalty Subclass have suffered, and continue to suffer, substantial losses
15 related to the use and enjoyment of such wages and lost interest on such wages. Plaintiff and the
16 Waiting Time Penalty Subclass are entitled to recover penalties against Defendants in an amount
17 to be determined at trial pursuant to Labor Code § 203, which provides that an employee's wages
18 shall continue as a penalty until paid, for a period of up to thirty (30) days from the time they
19 were due.

20 **SEVENTH CAUSE OF ACTION**

21 **Failure to Furnish Accurate Itemized Wage Statements**

22 **[Cal. Labor Code § 226]**

23 **(Against All Defendants by Plaintiff on Behalf of the Class and Subclass (g))**

24 53. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
25 fully set forth herein.

26 54. During the Class Period, Defendants failed to provide Plaintiff and the Wage
27 Statement Subclass with timely and accurate itemized wage statements in writing showing each
28 employee's gross wages earned, total hours worked, all deductions made, net wages earned, the

1 name and address of the legal entity or entities employing Plaintiff and the Wage Statement
2 Subclass, and all applicable hourly rates in effect during each pay period and the corresponding
3 number of hours worked at each hourly rate, in violation of California Labor Code § 226.

4 55. During the Class Period, Plaintiff and the Wage Statement Subclass suffered
5 injury, and continue to suffer injury, as a result of Defendants' failure to provide timely and
6 accurate itemized wage statements, as Plaintiff and the Wage Statement Subclass could not
7 promptly and easily determine from the wage statement alone one or more of the following: the
8 gross wages earned, the total hours worked, all deductions made, the net wages earned, the name
9 and address of the legal entity or entities employing Plaintiff and the Wage Statement Subclass,
10 and all applicable hourly rates in effect during each pay period, including the corresponding
11 number of hours worked at each hourly rate.

12 56. As a direct and proximate cause of the aforementioned violations, Plaintiff and
13 the Wage Statement Subclass have suffered actual damages in an amount according to proof at
14 trial, and seek all wages earned and due, plus interest thereon. Additionally, Plaintiff and the
15 Wage Statement Subclass are entitled to an award of costs, expenses, and reasonable attorneys'
16 fees, as well as other available remedies.

17 **EIGHTH CAUSE OF ACTION**

18 **Unfair and Unlawful Business Practices**

19 **[Cal. Bus. & Prof. Code § 17200 *et seq.*]**

20 **(Against all Defendants by Plaintiff on Behalf of the Class)**

21 57. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
22 fully set forth herein.

23 58. Each and every one of Defendants' acts and omissions as heretofore described
24 constitute unfair and unlawful business practices under California Business and Professions
25 Code § 17200 *et seq.*

26 59. Defendants' violations of California wage and hour laws constitute a business
27 practice because Defendants' aforementioned acts and omissions were done repeatedly over a
28 significant period of time, and in a systematic manner, to the detriment of Plaintiff and the Class

Members.

60. Defendants have avoided payment of earned wages, overtime wages, meal period wages, rest break premiums, and other benefits, as required by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage Order. Further, Defendants have failed to record, report, and pay the correct sums of assessment to the state authorities under the California Labor Code and other applicable regulations.

61. As a result of Defendants' unfair and unlawful business practices, Defendants have reaped unfair and illegal profits during the Class Period at the expense of Plaintiff, Class Members, and members of the public. Defendants should be made to disgorge their ill-gotten gains and to restore them to Plaintiff and the Class Members.

62. Defendants' unfair and unlawful business practices entitle Plaintiff and the Class Members to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendants account for, disgorge, and restore Plaintiff and Class Members the wages and other compensation unlawfully withheld from them. Plaintiff and Class Members are entitled to restitution of all monies to be disgorged from Defendants in an amount subject to proof at trial.

NINTH CAUSE OF ACTION

Private Attorney General Act of 2004

[Cal. Labor Code § 2698 *et seq.*]

(Against all Defendants by Plaintiff on Behalf of the Aggrieved Employees)

63. Plaintiff re-alleges and incorporates by reference the above paragraphs as though fully set forth herein.

64. 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.

65. Plaintiff seeks to recover PAGA civil penalties through a representative action for violation of the following Labor Code provisions as alleged herein.

66. On May 20, 2021, Plaintiff filed a claim notice online with the California LWDA, LWDA Case No. LWDA-CM-932813-21 and mailed the same via certified mail to Defendants. To date, Plaintiff has not received a response. Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted her administrative requirements for bringing a claim under PAGA.

67. Plaintiff was compelled to retain the services of counsel to file this court action to protect the interests and the interests of other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to receive under California Labor Code § 2699.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. For compensatory damages in an amount to be proven at trial;
2. For restitution and disgorgement of profits according to proof from Defendants' unfair and unlawful business practices;
3. For meal and rest period compensation pursuant to California Labor Code § 226.7;
4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
5. For preliminary and permanent injunctive relief enjoining Defendants from violating the relevant provisions of the California Labor Code and the applicable IWC Wage Orders and from engaging in the unlawful business practices complained of herein;
6. For waiting time penalties pursuant to California Labor Code § 203;
7. For interest on the unpaid wages at 10% per annum pursuant to California Labor Code §§ 218.6, and 1194 California Civil Code §§ 3287 and 3288, and/or any other applicable provision providing for pre-judgment interest;
8. For reasonable attorney fees and cost of suit pursuant to California Labor Code § 1194, California Civil Code § 1021.5, and any other applicable provisions provide for attorneys' fees and costs;
9. For declaratory relief;

10. For an order certifying the action as a class action;
11. For an order appointing Plaintiff as a class representative and Plaintiff's counsels as class counsels;
12. For civil penalties due to Plaintiffs, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a); and
13. For such other and further relief as this Court deems just and proper.

DATED: April 17, 2023

KIM LEGAL, APC
HELEN KIM LAW, APC

By: /s/ Frank H. Kim
FRANK H. KIM
Attorneys for Plaintiff and the Putative
Class