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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 TIMOTHY O'CAIN, an individual, individually
11 and on behalf of all others similarly situated,

12 Plaintiff,

13 v.

14 TOOL OF NORTH AMERICA, LLC, a
15 California Limited Liability Company; ERICH
16 JOINER, an individual; DOE 1 through and
17 including DOE 10,

18 Defendants.

Case No: 21STCV16755

Assigned to Hon. Elihu M. Berle, Dept. 6

SECOND AMENDED COMPLAINT

[PAGA Representative Action; Class Action;
Collective Action]

1. Cal. Lab. Code (the "Code") §§ 201.5 and 203, Continuing Wages
2. Code § 226(a), Pay Stubs
3. Code §§ 510, 515, 1194, and 1198, Overtime
4. Code §§ 510, 1194, 1197 and 1197.1, Minimum Wages
5. Code § 226.7 and 512(a), Meal Breaks
6. Code § 226.7, Rest Breaks
7. Cal. Bus. & Prof. Code § 17200, Unfair Comp.
8. Code § 226(b) and 432, Employment Records
9. Code § 1198.5, Personnel File
10. Cal. Lab. Code § 2698, PAGA
11. FLSA

1 Plaintiff Timothy O’Cain by and through his undersigned attorneys, alleges as follows:

2 **JURISDICTION AND VENUE**

3 1. This is a class and representative action brought under the California Labor Code Private
4 Attorneys General Act (“PAGA”), seeking relief under state law on account of unpaid wages, unpaid
5 overtime, damages, continuing wages, liquidated damages, penalties, restitution and attorneys’ fees and
6 costs, as well as a collective action under the federal Fair Labor Standards Act (“FLSA”).

7 2. Venue as to Defendants is proper in this judicial district, pursuant to California Business
8 & Professions Code section 17203 and California Code of Civil Procedure sections 395(a) and 395.5.
9 Defendants maintain an office, transact business, have an agent, or are found in the County of Los
10 Angeles and are within the jurisdiction of this Court for purposes of service of process. Defendant
11 constitutes an “enterprise” within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203. See 29
12 U.S.C. § 203(r) (defining “enterprise”). Defendant is engaged in interstate commerce, with annual sales
13 in excess of \$1,000,000 and with dozens of employees.

14 **INTRODUCTION**

15 3. Plaintiff Timothy O’Cain (“O’Cain”) is an individual, who, during the time periods
16 relevant to this Complaint, was and is a retired fireman, and a resident of the County of Los Angeles,
17 State of California. Since in or about 1957 it has been the consistent position of the motion picture
18 industry in Los Angeles County, California that, with respect to off-duty and retired members of the
19 LAPD and the Fire Department, “[t]hat these people, when so employed [by the studios], should be put
20 on the studio payroll, and the usual deductions shall be made, the same as for any other employee.”
21 Exhibit 1 (AMPTP 00039).

22 4. Defendant Tool of North America, LLC (“TNA”) is a California limited liability
23 company, which at all times relevant herein, conducted business within the County of Los Angeles of
24 the State of California. On prior occasions, TNA has been accused of violating the California Labor
25 Code (the “Code”) in lawsuits brought against it. Greenberg v. EP Management Services, LP, Los
26 Angeles Superior Court (Case No. BC250072). In the Greenberg case, Judgment was entered in 2006.
27 Thereafter, by legislation and court decisions, the statutes at issue herein have been strengthened to
28 further protect employees. Defendants are “temporary services employers” as defined by Code § 201.3

1 and required to pay workers no less frequently than weekly. As a “temporary services employer,” TNA
2 is an employing unit which contracts with clients to supply workers to perform services to its clients.
3 TNA performs all of the following functions and did so in the present Production: (A) Negotiates with
4 clients and customers for matters such as the time and place where the services are to be provided, the
5 type of work, the working conditions, and the quality and price of the services; (B) Determines
6 assignments or reassignments of workers, even if workers retain the right to refuse specific assignments;
7 (C) Retains the authority to assign or reassign a worker to another client or customer when the worker is
8 determined unacceptable by a specific client or customer; (D) Assigns or reassigns workers to perform
9 services for clients or customers; (E) Sets the rate of pay of workers, whether or not through negotiation;
10 (F) Pays workers from its own account or accounts; and (G) Retains the right to hire and terminate
11 workers.

12 5. Defendant Erich Joiner (“Joiner”) is an individual, who at all times relevant herein,
13 conducted business within the County of Los Angeles of the State of California. He was the founder and
14 owner of Defendant Tool of North America, LLC (“TNA”). Joiner was personally involved in and/or
15 responsible for decisions regarding operations and compensation policy. Specifically, Joiner was the
16 director of the “Ford YE #220058” Production. As such, he was responsible for the following duties of
17 a film director: The Film Director guides all the moving parts that need to come together in a video
18 production. The Film Director not only has a creative crew to supervise, but they must also work with
19 business owners and other professionals on the company’s side to complete a project. Other important
20 duties and responsibilities a Film Director takes on include:

- 21 • Communicating with everyone involved in the project
- 22 • Working with other team supervisors to ensure the project stays on task and that deadlines and
23 budget constraints are met
- 24 • Hiring cast members, production professionals and other individuals involved in the
25 filmmaking process
- 26 • Reading and editing scripts.

27 Creating a film is a complex task, and even though advertisements are much shorter than feature films,
28 Directors such as Joiner need and has many of the same skills to produce commercial content. As an

1 effective Director Joiner exercised have many skills, both in terms of being creative and being
2 technically competent. Some of the qualifications and skills he uses are:

- 3 • Creativity
- 4 • Technical skills
- 5 • Budget management
- 6 • Team management
- 7 • Communication skills

8 6. Joiner and TNA are collectively referred to herein as the “Defendant” or “Defendants.”

9 7. Defendants Doe One through and including Doe Ten are sued herein under the provisions
10 of section 474 of the California Code of Civil Procedure. Plaintiff is currently ignorant of the true
11 names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued
12 herein under fictitious names and therefore sue such defendants by such fictitious names. Plaintiff will
13 seek leave to amend this complaint to allege the true names and capacities of said fictitiously named
14 defendants when their true names and capacities have been ascertained. Plaintiff is informed and
15 believes and thereon alleges that each of the fictitiously named defendants is legally responsible in some
16 manner for the events and occurrences alleged herein, and for the damages suffered by the Class.

17 8. Plaintiff is informed and believes and thereon alleges that all defendants, including the
18 fictitious Doe defendants, were at all relevant times acting as actual agents, conspirators, ostensible
19 agents, alter egos, partners and/or joint venturers and/or employees of all other defendants, and that all
20 acts alleged herein occurred within the course and scope of said agency, employment, partnership, and
21 joint venture, conspiracy or enterprise, and with the express and/or implied permission, knowledge,
22 consent authorization and ratification of their co-defendants; however, each of these allegations are
23 deemed “alternative” theories whenever not doing so would result in a contradiction with other
24 allegations.

25 9. The Defendants are responsible joint employers for Code violations as they each meet at
26 least one of the three joint employer tests in Martinez v. Combs, 49 Cal. 4th 35 (2010). As joint
27 employers, they are responsible for damages, penalties and attorneys’ fees. Martinez advances three
28 alternative tests for determining employer status, each of which is independently sufficient for purposes

1 of resolving employer status. See 49 Cal. 4th at 64–65. In other words, even if this Court were to find
2 that they were not employers under a one of the Martinez tests, they are responsible employers if either
3 of the two remaining tests is satisfied. According to Martinez, an entity is an employer not only if it (a)
4 “engage[s]” workers by “creating a common law employment relationship” (the Common-Law Test) (b)
5 “exercise[s] control over the wages, hours or working conditions” of the workers (the Wages, Hours or
6 Working Conditions Test), or (c) “suffer[s] or permit[s]” the work (the Suffer or Permit Test). Id. at 64.
7 Here, the Defendants permitted Plaintiff to perform functions that are normally part of their business of
8 motion picture production. The Defendants had a duty to ensure that Plaintiff was properly paid the
9 wages that he had been promised, but they failed to do so in timely fashion. Defendants failed to ensure
10 that Plaintiff was timely paid final wages.

11 10. Although the defense may claim that Plaintiff was an independent contractor, that
12 defense has been lost since the adoption of the ABC test under Dynamex. Under the ABC test, a worker
13 is considered an employee and not an independent contractor, unless the hiring entity satisfies **all**
14 **three** of the following conditions:

- 15 • The worker is free from the control and direction of the hiring entity in connection with the
16 performance of the work, both under the contract for the performance of the work and in fact;
- 17 • The worker performs work that is outside the usual course of the hiring entity’s business; **and**
- 18 • The worker is customarily engaged in an independently established trade, occupation, or
19 business of the same nature as that involved in the work performed.

20 11. In addition, Defendants are responsible for Code violations as “other person[s] acting on
21 behalf of an employer,” under Code § 558.1. Individuals may be held liable as the employer for Labor
22 Code violations if they cause those violations. *Usher v. White*, 64 Cal. App. 5th 883, 883 (2021). Code §
23 558.1 states in part that “[a]ny employer or other person acting on behalf of an employer, who violates,
24 or causes to be violated . . . [Code] Sections 203, 226, 226.7 . . . 1194 . . . may be held liable as the
25 employer for such violation.” Code § 558.1(a). Persons who may be held liable include “an owner,
26 director, officer, or managing agent of the employer, and the term ‘managing agent’ has the same
27 meaning as in subdivision (b) of Section 3294 of the Civil Code.”

28 12. The individual Defendants are also alternatively liable under section 558.1 as owners,

1 officers or managing agents of . “Managing agents” are employees who “exercise[] substantial
2 discretionary authority over decisions that ultimately determine corporate policy.” White v. Ultramar,
3 Inc., 21 Cal. 4th 563, 573 (1999); Davis v. Kiewit Pac. Co., 200 Cal. App. 4th 358, 366 (2013).

4 13. As is routine in the motion picture industry (which includes the production of television
5 commercials), after a short stint of work (even just a single day), Plaintiff was discharged under Labor
6 Code section 201.5, when his employment ceased. Smith v. Superior Court, 39 Cal. 4th 77, 80 (2006)
7 (holding that hair model who worked for one day at a show was discharged at the end of the workday
8 and entitled to penalties under section 203 when she was paid two months later).

9 14. It is “an employer’s duty under the FLSA to maintain accurate records of its employees’
10 hours” and that duty “is non-delegable.” Kuebel v. Black & Decker Inc., 643 F.3d 352, 363 (2d Cir.
11 2011). Although Kuebel establishes that it is solely the employer’s duty to keep track of hours worked
12 under the federal FLSA, and although Plaintiff’s wage-and-hour claims are brought under the state law,
13 the fact remains that Defendant, at all times, was subject to the FLSA and therefore was itself required to
14 keep track of Plaintiff’s hours worked. See Troester v. Starbucks Corp., 5 Cal. 5th 829, 839 (2018)
15 (explaining that, although California’s wage-and-hour laws are “more protective than federal law” and
16 that “California is free to offer [employees] greater protection,” the FLSA “provide[s] a level of
17 employee protection that a state may not derogate”). Troester, 5 Cal. 5th at 846 (“Nor is it clear why,
18 when it is difficult to keep track of time worked, the employee alone should bear the burden of that
19 difficulty”), 848 (“An employer may be able to customize and adapt available time tracking tools or
20 develop new ones when no off-the-shelf product meets its needs. And even when neither a restructuring
21 of work nor a technological fix is practical, it may be possible to reasonably estimate work time . . . and
22 to compensate employees for that time.”). Marlo v. United Parcel Serv., Inc., No. CV 03-04336 DDP
23 (RZx), 2009 WL 1258491, at *3 (C.D. Cal. May 5, 2009) explains that, under California law,
24 “employers must keep track of the hours . . . employees work.”

25 15. Before an employee starts to work for an employer, the employer is required to have the
26 employee fill out the requisite new-hire paperwork, including the W-4 and I-9, tasks which were here
27 completed. See, e.g., Ketchikan Drywall Servs., Inc. v. Immigration & Customs Enforcement, 725 F.3d
28 1103, 1113 (9th Cir. 2013) (stating that 8 U.S.C. § 1324a “clearly makes employers responsible for

1 documenting employee work authorization” and that, “[w]here [a defendant] cho[oses] to hire
2 employees who ha[ve] failed to fill out [s]ection 1 [of I-9 Forms] completely, it d[oes] so at its own
3 peril”); 26 C.F.R. § 31-3402(f)(2)-1 subsec. (a) (stating that a withholding-exemption certificate must be
4 completed “[o]n or before the date on which an individual commences employment”); 22 Cal. Code
5 Regs. § 4340-1(a) stating that a withholding-exemption certificate must be completed “[o]n or before the
6 date on which an individual commences employment”). If, for example, the employee fails to complete
7 the necessary tax documents—which is what Defendant appears to contend, as set forth below—the
8 employer must follow the guidance from the Internal Revenue Service and the California Employment
9 Development Department by withholding taxes as if the employee is single with no withholding
10 allowances. *See* Internal Revenue Serv., *Topic Number 753 – Form W-4 – Employee’s Withholding*
11 *Allowance Certificate* (last updated Mar. 1, 2018), <https://www.irs.gov/taxtopics/tc753>. There is an
12 analogous cite from the California EDD (re defaulting to the single-no-allowances rule): Cal. Emp’t
13 Dev. Dep’t, *Employer’s Obligations for Form W-4 or DE 4* (2016), [https://www.edd.ca.gov/pdf_pub_](https://www.edd.ca.gov/pdf_pub_ctr/de71.pdf)
14 [ctr/ de71.pdf](https://www.edd.ca.gov/pdf_pub_ctr/de71.pdf)).

15 16. In addition, Defendants failed to provide proper meal periods and rest breaks since crew
16 were required to monitor their walkie-talkies all day they are entitled to premium wages for Defendants’
17 failure to provide compliant rest breaks or meal periods. Aggrieved Employees the 203 Class have not
18 been timely compensated in full for their services. Plaintiff and the 203 Class consistently worked more
19 than 6-hour and/or 12-hour shifts. However, they were required to keep their walkie talkies or radios on
20 their persons, turned on and audible at all times, including their rest periods and meal breaks and/or they
21 were precluded from leaving the set during their breaks. Accordingly, they were denied their breaks and
22 are entitled to an additional thirty minutes of wages for each faux meal break. Augustus v. ABM
23 Security Services, Inc., 2 Cal.5th 257 (2016).

24 17. Defendants did not compensate Plaintiff or other crew members on its many motion
25 picture productions as required by the Fair Labor Standards Act or sections 201.3 and/or 201.5 of the
26 California Labor Code.

27 18. Defendants failed to fully compensate Plaintiff and other nonexempt workers who
28 performed services on the Production or other such projects produced in California for Defendants

1 (“Aggrieved Employees”) for work performed. Plaintiff and the Aggrieved Employees worked on the
2 Production as well as on other California motion picture projects, toiling more than eight hours in a
3 single day and over forty hours in a work week, yet not being paid timely or with appropriate wage
4 statements, all due to Defendant’s insufficient funding of the payroll accounting function and desire to
5 make such payments from funds received for each project from clients rather than from working capital.

6 19. Emergency Rule 9 as promulgated by the Judicial Council of California on insert date,
7 provides: “Notwithstanding any other law, the statutes of limitations and repose for civil causes of action
8 that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.” The Advisory Committee
9 Comment notes that: “Emergency rule 9 is intended to apply broadly to toll any statute of limitations on
10 the filing of a pleading in court asserting a civil cause of action. The term “civil causes of action”
11 includes special proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of the code
12 (Of the Time of Commencing Civil Actions), is construed “as including a special proceeding of a civil
13 nature”]). . . . The rule also applies to statutes of limitations on filing of causes of action in court found
14 in codes other than the Code of Civil Procedure.”

15 **GENERAL ALLEGATIONS**

16 20. Defendants employed Plaintiff and others as crew members for a commercial entitled
17 “Ford YE #220058.” (“Production”). The Aggrieved Employees herein include Plaintiff, crew members
18 on the Production, and other crew members who have been issued wage statements for services
19 performed for TNA in California (collectively, the “Aggrieved Employees”).

20 21. Plaintiff O’Cain was hired to work on October 21, 2020 as a crew member on the
21 Production. He worked 11.5 hours that day. Once his employment ended, Defendants were required to
22 pay him by Thursday of the next Sunday to Saturday payroll week, no later than by Thursday, October
23 29, 2020. According to the wage statement issued to Plaintiff, his “Pay Frequency” was “W[EEKLY]”.
24 Plaintiff’s final paycheck was not prepared until Tuesday, November 3, 2020, late by at least four days.
25 A partially redacted copy of the Plaintiff’s final paycheck is attached hereto as Exhibit 2 (ToolNA_
26 O’Cain_000006).

27 22. O’Cain was not compensated for Defendants’ failure to provide meal and rest breaks.
28 Indeed, it appears that the Defendants never paid any member of the crew anything on account of missed

1 rest breaks. Indeed, O’Cain’s timecard stated: “No Meal Deduction Constant Hourly Employee.” In
2 addition, according to Defendants’ “Location Conduct Code Of Professional Responsibility,” the crew
3 are to “[r]emain within the boundaries of the property that has been permitted for filming” and the crew
4 are instructed that “[m]eals shall be confined to the area designated in the Location Agreement or
5 permit. Individuals shall eat within their designated meal area, during scheduled crew meals.” See
6 Exhibit 3.

7 23. Although Plaintiff should have been paid in full for his accrued minimum wages and
8 overtime, issued legally compliant wage statements, and paid no later than as required by Code § 201.3
9 and 201.5, Plaintiff was not paid properly.

10 24. Defendants failed to properly compensate Plaintiff and other Aggrieved Employees who
11 performed services on the Production and/or other such projects produced in California for TNA for
12 work performed. Plaintiff and the Aggrieved Employees worked on the Production as well as on other
13 California motion picture projects, yet not being paid timely or with appropriate wage statements, all
14 due to Defendant’s undercapitalization and insufficient funding of the payroll accounting function, its
15 profits having routinely been stripped from its balance sheet.

16 25. At all relevant times mentioned herein, Wage Order 12 of the California Industrial
17 Welfare Commission applied to Plaintiff and Aggrieved Employees. In part, the Wage Order reflects
18 employer obligations regarding hours and days of work, reporting time pay and records (obligations
19 which the employer, here, failed to fulfill, both with respect to Plaintiff and Aggrieved Employees). The
20 Wage Order provides, in relevant part:

21 **3. Hours and Days of Work.**

22 **(A) Daily Overtime - General Provisions**

23 (1) The following overtime provisions are applicable to employees 18 years of age or
24 over and to employees 16 or 17 years of age who are not required by law to attend school
25 and are not otherwise prohibited by law from engaging in the subject work. Such
26 employees shall not be employed more than eight (8) hours in any workday or more than
27 40 hours in any workweek unless the employee receives one and one-half (1.5) times
28 such employee’s regular rate of pay for all hours worked over 40 hours in the workweek.
Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in
any workday or more than six (6) days in any workweek is permissible provided the
employee is compensated for such overtime as follows:

1 (a) Employees may be employed up to a maximum of sixteen (16) hours including meal
2 periods in any one day from the time they are required and do report until dismissed,
provided the employee is compensated for such overtime at not less than:

3 (1) For daily employees and weekly employees, excluding weekly employees guaranteed
4 more than forty (40) hours a workweek and "on call" employees, one and one-half (1.5)
5 times the employee's regular rate of pay for all hours worked in excess of eight (8) hours
up to and including twelve (12) hours in any one workday, and for the first eight (8)
hours worked on the seventh (7th) consecutive day of work in a workweek; and

6 (2) Double the employee's regular rate of pay for all hours worked in excess of twelve
(12) hours in any workday, , and for all hours worked in excess of eight (8) hours on the
seventh (7th) consecutive day of work in a workweek.

7 (3) Overtime payments shall not be compounded and all payments made by the employer
8 for daily overtime on the basis herein above specified shall be applied toward any sum
for weekly overtime.

9 (4) The overtime rate of compensation required to be paid to a nonexempt full-time
10 salaried employee shall be computed by using the employee's regular hourly salary as
one fortieth (1/40) of the employee's weekly salary. The overtime rate of compensation
11 required to be paid to a nonexempt full-time salaried employee shall be computed by
using the employee's regular hourly salary as one-fortieth (1/40) of the employee's
12 weekly salary.

13 . . .

13 **7. Records.**

14 (A) Every employer shall keep accurate information with respect to each employee
including the following:

15 (1) Full name, home address, occupation and social security number.

16 (2) Birth date, if under 18 years, and designation as a minor.

17 (3) Time records showing when the employee begins and ends each work period. Meal
periods, split shift intervals and total daily hours worked shall also be recorded. Meal
periods during which operations cease and authorized rest periods need not be recorded.

18 (4) Total wages paid each payroll period, including value of board, lodging, or other
compensation actually furnished to the employee.

19 (5) Total hours worked in the payroll period and applicable rates of pay. This information
shall be made readily available to the employee upon reasonable request.

20 (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of
the incentive plan formula shall be provided to employees. An accurate production record
21 shall be maintained by the employer.

22 (B) Every employer shall semimonthly or at the time of each payment of wages furnish
each employee, either as a detachable part of the check, draft, or voucher paying the
employee's wages, or separately, an itemized statement in writing showing: (1) all
23 deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the
name of the employee or the employee's social security number; and (4) the name of the
24 employer, provided all deductions made on written orders of the employee may be
aggregated and shown as one item.

25 (C) All required records shall be in the English language and in ink or other indelible
26 form, properly dated, showing month, day and year, and shall be kept on file by the
employer for at least three years at the place of employment or at a central location within
27 the State of California. An employee's records shall be available for inspection by the
28 employee upon reasonable request.

1 Cal. Code Regs., Title 8 §§ 11110, 11120.

2 26. At all relevant times mentioned herein, section 201.5 of the Code provided in part:

3 (a) For purposes of this section, the following definitions apply:

4 (1) “An employee engaged in the production or broadcasting of motion pictures” means
an employee to whom both of the following apply:

5 (A) The employee’s job duties relate to or support the production or broadcasting of
motion pictures or the facilities or equipment used in the production or broadcasting of
6 motion pictures.

7 (B) The employee is hired for a period of limited duration to render services relating to or
supporting a particular motion picture production or broadcasting project, or is hired on
the basis of one or more daily or weekly calls.

8 (2) “Daily or weekly call” means an employment that, by its terms, will expire at the
conclusion of one day or one week, unless renewed.

9 (3) “Next regular payday” means the day designated by the employer, pursuant to Section
10 204, for payment of wages earned during the payroll period in which the termination
occurs.

11 (4) “Production or broadcasting of motion pictures” means the development, creation,
presentation, or broadcasting of theatrical or televised motion pictures, television
12 programs, commercial advertisements, music videos, or any other moving images,
including, but not limited to, productions made for entertainment, commercial, religious,
13 or educational purposes, whether these productions are presented by means of film, tape,
live broadcast, cable, satellite transmission, Web cast, or any other technology that is now
14 in use or may be adopted in the future.

15 (b) An employee engaged in the production or broadcasting of motion pictures whose
employment terminates is entitled to receive payment of the wages earned and unpaid at
16 the time of the termination **by the next regular payday**.

17 (c) The payment of wages to employees covered by this section may be mailed to the
employee or made available to the employee at a location specified by the employer in
18 the county where the employee was hired or performed labor. The payment shall be
deemed to have been made on the date that the employee’s wages are mailed to the
19 employee or made available to the employee at the location specified by the employer,
whichever is earlier.

20 (d) For purposes of this section, an employment terminates when the employment
relationship ends, whether by discharge, lay off, resignation, completion of employment
21 for a specified term, or otherwise.

22 (e) Nothing in this section prohibits the parties to a valid collective bargaining agreement
from establishing alternative provisions for final payment of wages to employees covered
23 by this section if those provisions do not exceed the time limitation established in Section
204.

24 Code § 201.5. At all relevant times mentioned herein, section 201.5 of the Code controlled the final
25 payment of wages to Plaintiff, the proposed Code Class, and the Aggrieved Employees.

26 27. At all relevant times mentioned herein, section 203 of the Code provided:

27 If an employer willfully fails to pay, without abatement or reduction, in accordance with
28 Sections 201, 201.5, 202 and 202.5, any wages of an employee who is discharged or who

1 quits, the wages of the employee shall continue as a penalty from the due date thereof at
2 the same rate until paid or until action therefore is commence; but the wages shall not
continue for more than 30 days.

3 Code § 203.

4 28. By failing to pay timely Plaintiff and Aggrieved Employees all wages when due at the
5 end of employment, Plaintiff, the proposed Code Class, and Aggrieved Employees are entitled to
6 continuing wages pursuant to section 203 of the Code.

7 29. At all times relevant herein, section 204 of the Code provided in part that all wages be
8 paid as least twice in each calendar month. Code § 204.

9 30. In no event should Plaintiff or the Aggrieved Employees have been paid later than the
10 time periods established by sections 201.3, 201.5 or 204 of the Code, but certain payments to Plaintiff,
11 the Code Class, and the Aggrieved Employees were made after they were due, or not at all, leading to
12 penalties and civil penalties under sections 203 and 210 of the Code and otherwise.

13 31. At all times relevant herein, section 210 of the Code provided:

14 In addition to, and entirely independent and apart from, any other penalty provided in this
15 article, every person who fails to pay the wages of each employee as provided in Sections
16 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
17 follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay
each employee; (b) For each subsequent violation, or any willful or intentional violation,
two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
amount unlawfully withheld.

18 Code § 210. The TNA policy has been to devote insufficient capital, manpower and other required
19 resources to its business, including providing sufficient funding of the payroll accounting function, with
20 the inevitable result that employees are routinely paid in tardy fashion, in violation of sections 201.3,
21 203 and/or 204 of the Code. In addition, TNA routinely enters contracts to produce television
22 commercials which contracts provide that the advertising agency need not pay the full amount owing to
23 TNA until it receives final delivery of a finished product. TNA maintains internal budgets for each
24 individual television commercial it produces. The internal TNA accounting practice has the inevitable,
25 routine result of TNA putting a hold on the funding of final wage payments until it has received
26 sufficient funds to make the payments, all within its internally imposed, discretionary accounting
27 practices.

28 32. At all relevant times mentioned herein, section 510(a) of the Code provided:

1 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one
2 workday and any work in excess of 40 hours in any one workweek and the first eight
3 hours worked on the seventh day of work in any one workweek shall be compensated at
4 the rate of at least one and one-half times the regular rate of pay for an employee. Any
5 work in excess of 12 hours in one day shall be compensated at the rate of no less than
6 twice the regular rate of pay for an employee. In addition, any work in excess of eight
7 hours on any seventh day of a workweek shall be compensated at the rate of no less than
8 twice the regular rate of pay of an employee. Nothing in this section requires an employer
9 to combine more than one rate of overtime compensation in order to calculate the amount
10 to be paid to an employee for any hour of overtime work.

11 Code § 510.

12 33. Defendants failed to pay proper minimum wage or overtime to Plaintiff, the proposed
13 Code Class, and Aggrieved Employees, delaying such payments to beyond the required next weekly pay
14 period.

15 34. At all relevant times mentioned herein, section 515(d)(2) of the Code provided:

16 Payment of a fixed salary to a nonexempt employee shall be deemed to provide
17 compensation only for the employee's regular, non-overtime hours, notwithstanding any
18 private agreement to the contrary.

19 Code § 515(d)(2). Accordingly, a daily wage rate is "deemed to provide compensation only for the
20 employee's regular, non-overtime hours" too. Alvarado v. Dart Container Corp. of Cal., 4 Cal. 5th 542,
21 564–65, as modified (2018) ("the Legislature expressly endorsed the principle that flat sum non-hourly
22 compensation should be factored into an employee's regular rate of pay by dividing the flat sum by the
23 number of non-overtime hours that exist in the relevant period, and that the flat sum compensates the
24 worker for only nonovertime hours worked.") The California Supreme Court based its holding on
25 fundamental principles that "the obligation to pay premium pay for overtime work reflects a state policy
26 favoring an eight-hour workday and a six-day 40-hour workweek, and discouraging employers from
27 imposing work in excess of those limits." Alvarado, 4 Cal. 5th at 539.

28 35. At all relevant times mentioned herein, section 1194 of the Code provided:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less
than the legal minimum wage or the legal overtime compensation applicable to the
employee is entitled to recover in a civil action the unpaid balance of the full amount of
this minimum wage or overtime compensation, including interest thereon, reasonable
attorney's fees, and costs of suit.

Code § 1194.

36. Plaintiff, the proposed Code Class and Aggrieved Employees were not timely paid the
minimum wages and/or overtime to which they were entitled. Accordingly, they are entitled to

1 liquidated damages under section 1194.2.

2 37. At all relevant times mentioned herein, section 558.1 of the Code provided:

3 (a) Any employer or other person acting on behalf of an employer, who violates, or
4 causes to be violated, any provision regulating minimum wages or hours and days of
5 work in any order of the Industrial Welfare Commission, or violates, or causes to be
6 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the
7 employer for such violation.

8 (b) For purposes of this section, the term "other person acting on behalf of an employer"
9 is limited to a natural person who is an owner, director, officer, or managing agent of the
10 employer, and the term "managing agent" has the same meaning as in subdivision (b) of
11 Section 3294 of the Civil Code.

12 (c) Nothing in this section shall be construed to limit the definition of employer under
13 existing law.

14 Code § 558.1. Joiner is a joint employer with TNA, or other persons acting on behalf of an employer,
15 who violated, or caused to be violated the relevant sections of the Code referenced herein.

16 38. At all relevant times mentioned herein, section 558 of the Code provided:

17 Any employer or other person acting on behalf of an employer who violates, or causes to
18 be violated, a section of this chapter or any provision regulating hours and days of work
19 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as
20 follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for
21 each pay period for which the employee was underpaid in addition to an amount
22 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred
23 dollars (\$100) for each underpaid employee for each pay period for which the employee
24 was underpaid in addition to an amount sufficient to recover underpaid wages. (3)
25 Wages recovered pursuant to this section shall be paid to the affected employee.

26 Code § 558. Defendants are the employers or other persons acting on behalf of an employer who
27 violated, or caused to be violated the relevant sections of the Code referenced herein.

28 39. At all relevant times mentioned herein, section 226 of the Code provided:

(a) An employer, semimonthly or at the time of each payment of wages, shall furnish to
his or her employee, either as a detachable part of the check, draft, or voucher paying the
employee's wages, or separately if wages are paid by personal check or cash, an accurate
itemized statement in writing showing (1) gross wages earned, (2) total hours worked by
the employee, except as provided in subdivision (j), (3) the number of piece-rate units
earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
deductions, provided that all deductions made on written orders of the employee may be
aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the
period for which the employee is paid, (7) the name of the employee and only the last
four digits of his or her social security number or an employee identification number
other than a social security number, (8) the name and address of the legal entity that is the
employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of
Section 1682, the name and address of the legal entity that secured the services of the
employer, and (9) all applicable hourly rates in effect during the pay period and the
corresponding number of hours worked at each hourly rate by the employee and,

beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. . . .

Code § 226. Defendants did not provide Plaintiff or other Aggrieved Employees wage statements with all required information, including but not limited to inclusive dates of each pay period. Section 226 of the Code must be interpreted to protect the employee rather than the employer and, as such, the only reasonable interpretation of the statute requires the worker to be able to determine from the wage statement alone both the length of the pay period and the first and last day of the pay period, whether it be weekly, every other week, or twice each month. Without this information the employee is unable to determine whether they have been paid timely, either under section 201.5 of the Code or under the federal Fair Labor Standards Act.

40. At all relevant times mentioned herein, section 2810.3 of the Code provided:

(a) As used in this section:

(1) (A) “Client employer” means a business entity, regardless of its form, that obtains or is provided workers to perform labor within its usual course of business from a labor contractor.

. . .

(2) “Labor” has the same meaning provided by Section 200.

(3) “Labor contractor” means an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer’s usual course of business.

. . .

(4) “Wages” has the same meaning provided by Section 200 and all sums payable to an employee or the state based upon any failure to pay wages, as provided by law.

(5) “Worker” does not include an employee who is exempt from the payment of an overtime rate of compensation for executive, administrative, and professional employees pursuant to wage orders by the Industrial Welfare Commission described in Section 515.

(6) “Usual course of business” means the regular and customary work of a business, performed within or upon the premises or worksite of the client employer.

(b) A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:

(1) The payment of wages.

(2) Failure to secure valid workers’ compensation coverage as required by Section 3700.

(c) A client employer shall not shift to the labor contractor any legal duties or liabilities under Division 5 (commencing with Section 6300) with respect to workers supplied by the labor contractor.

1 (d) At least 30 days prior to filing a civil action against a client employer for violations
2 covered by this section, a worker or his or her representative shall notify the client
3 employer of violations under subdivision (b).

4 (e) Neither the client employer nor the labor contractor may take any adverse action
5 against any worker for providing notification of violations or filing a claim or civil
6 action.

7 (f) The provisions of subdivisions (b) and (c) are in addition to, and shall be supplemental
8 of, any other theories of liability or requirement established by statute or common law.

9 Code § 2810.3.

10 **CLASS-ACTION ALLEGATIONS**

11 41. Plaintiff brings this action on behalf of himself and all others similarly situated as a class
12 action pursuant to section 382 of the Code of Civil Procedure. Plaintiff seeks to represent a “Code
13 Class” composed of and defined as follows:

14 For the period three years and 180 days prior to the filing of this Complaint to date, all
15 persons paid wages on account of services provided for Defendants in the production of
16 Motion Pictures¹ (such persons are referred to hereafter as Code Class Members, and
17 such period is referred to hereafter as the Class Period).

18 Plaintiff seeks to represent a “226 Class” composed of and defined as follows:

19 For the period one year and 180 days prior to the filing of this Complaint to date, all
20 persons paid wages on account of services provided for Defendants in the production of
21 Motion Pictures (such persons are referred to hereafter as 226 Class Members, and such
22 period is referred to hereafter as the Class Period).

23 Plaintiff seeks to represent a “17200 Class” composed of and defined as follows:

24 For the period four years and 180 days prior to the filing of this Complaint to date, all
25 persons who were not provided proper meal breaks by Defendants in the production of
26 Motion Pictures (such persons are referred to hereafter as Meal Break Class Members,
27 and such period is referred to hereafter as the Class Period).

28 **Numerosity**

42. The potential members of each Class as defined are so numerous that joinder of all the
members of either Class is impracticable. The number of Class Members is great, but not so great as to
make the class unmanageable. It, therefore, is impractical to join each Class Member as a named
plaintiff. Accordingly, utilization of a class action is the most economically feasible means of
determining the merits of this litigation.

43. Despite the size of the proposed Classes, the Class Members are readily ascertainable

¹ See Cal. Lab. Code § 201.5 defining Motion Pictures.

1 through an examination of the records that Defendants are required by law to keep. Likewise, the dollar
2 amount owed to each Class Member is readily ascertainable by an examination of those same records.

3 **Commonality**

4 44. There are questions of law and fact common to each Class that predominate over any
5 questions affecting only individual Class Members. These common questions of law and fact include,
6 without limitation:

- 7 a. Whether Defendants failed to pay all wages in a timely fashion in violation of sections
8 201.3, 201.5, 203 and/or 204 of the Code.
- 9 b. Whether Defendants' failure to provide accurate itemized wage statements to each
10 employee violates section 226(a).
- 11 c. Whether Defendants untimely and/or nonpayment of wages give rise to liquidated
12 damages for failure to pay minimum wages under Code section 1194.2.
- 13 d. Whether Defendants' failure to provide meal breaks to each employee violates Code
14 section 226.7 and 512.
- 15 e. Whether Defendants' failure to provide rest breaks to each employee violates Code
16 section 226.7.

17 **Typicality**

18 45. There is a well-defined community of interest in the questions of law and fact common to
19 the Class Members.

20 46. The claims of the named Plaintiff are typical of the claims of each Class, which claims all
21 arise from the same general operative facts, namely, Defendants did not compensate its employees as
22 required by the Code and applicable Wage Order. Plaintiff and all members of the Classes sustained
23 injuries and damages arising out of and caused by Defendants in violation of laws, regulations that have
24 the force and effect of law, and statutes as alleged herein. Plaintiff has no conflict of interest with the
25 other Class Members and can represent the Class Members' interests fairly and adequately.

26 **Adequacy of Representation**

27 47. Plaintiff will fairly and adequately represent and protect the interests of the members of
28 each Class. Counsel who represents Plaintiff is competent and experienced in litigation large

1 employment class actions, including the aforesaid Greenberg litigation. Neither Plaintiff nor his counsel
2 have any conflict with either Class.

3 **Superiority of Class Action**

4 48. A class action is superior to other available means for the fair and efficient adjudication
5 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and
6 fact common to the Class predominate over any questions affecting only individual members of the
7 Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants'
8 illegal policy and/or practice of failing to pay hourly wages, failing to pay overtime wages, failing to
9 provide Class Members rest and meal periods without legal compensation. Class action treatment will
10 allow those similarly situated persons to litigate their claims in the manner that is most efficient and
11 economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely
12 to be construed in the management of this action that would preclude its maintenance as a class action.
13 The disposition of all claims of the members of the Class in a class action, rather than in individual
14 actions, benefits the parties and the Court. The interest of the Class Members in controlling the
15 prosecution of separate claims against Defendants is small when compared with the efficiency of a class
16 action.

17 **FLSA COLLECTIVE-ACTION ALLEGATIONS**

18 49. In this collective action, Plaintiff seeks to represent all individuals who were employed
19 by Defendants.

20 50. Plaintiff is similarly situated with the Collective-Action Members in that Plaintiff and
21 Collective-Action Members have been similarly damaged in that they have not received timely payment
22 in full of their earned wages, payment by the next regularly scheduled payday. See, Biggs v. Wilson, 1
23 F.3d 1537 (9th Cir. 1993).

24 51. This action is maintainable as an "opt-in" collective action pursuant to 29 U.S.C.
25 § 216(b) as to claims for liquidated damages, costs, and attorney's fees under the FLSA.

26 52. All individuals employed by Defendant should be given notice and be allowed to give
27 their consent in writing, i.e., to "opt in," to the collective action.
28

FIRST CAUSE OF ACTION

(Continuing Wages, Code §§ 201.3, 201.5, 203, 204
On Behalf of Plaintiff and the Code Class Against All Defendants)

53. Plaintiff realleges and incorporates herein by reference the allegations contained in this Complaint as though fully set forth herein.

54. As hereinabove articulated, Plaintiff, members of the Code Class, and Aggrieved Employees were not timely compensated in full for their services.

55. Defendants' failure to compensate Plaintiff, Aggrieved Employees and the Code Class within the time for which provision is made by sections 201.3 and 201.5 of the Code, despite their knowledge of their obligation to do so, was and is "willful" as the word is used in section 203.

56. Pursuant to section 203 of the Code, Plaintiff and the Code Class Members are entitled to continuing wages from Defendants in an amount according to proof. Plaintiff and Aggrieved Employees are also entitled to recover costs and reasonable attorneys' fees under section 218.5 of the Code. The estimated amount owing to Plaintiff is the product of his daily gross wage of \$749.29 and the number of late days, including weekends and holidays, here at least four.

SECOND CAUSE OF ACTION

(Failure to Provide Compliant Pay Stubs, Code § 226(a)
On Behalf of Plaintiff and the 226 Class Against All Defendants)

57. Plaintiff realleges and incorporates herein by reference the allegations contained in this Complaint as though fully set forth herein.

58. Defendants failed to provide Plaintiff, Aggrieved Employees and the 226 Class with wage statements conforming to the requirements of section 226(a) of the Code. Defendants failed to disclose the beginning and end dates of the applicable pay period, thereby violating the requirements of law, making it impossible for the worker to determine from the wage statement alone whether the paycheck issued to them had been timely prepared. For example, under Code §201.3, employees such as Plaintiff and Aggrieved Employees are to be paid by no later than weekly. However, without disclosing the beginning and end dates of the applicable week, it is not possible to determine, with certainty, when pay is due. Further, without disclosing the beginning and end dates of the applicable week, it may not be possible to determine, with certainty, whether all overtime pay has been paid. TNA and its payroll company treat each payment to the "free-lance" employees who have been hired to work on a TNA

1 television commercial as a separate person for each commercial. The result can be that one, such as
2 Plaintiff here, hired to work for a day on a commercial for the Ford Motor Company and its advertising
3 agency, might also be hired to work for TNA in connection with an entirely different client and its
4 advertising agency, all during the same weekly pay period. By not disclosing the beginning and end
5 date of the applicable pay period, “the employee cannot promptly and easily determine from the wage
6 statement alone,” either “the gross wages earned” or “the total hours worked by the employee,” as
7 required by Code §226(a)(1) and (2).

8 59. The foregoing was intentional misconduct of Defendants that injured Plaintiff and
9 Aggrieved Employees insofar as they were deprived of information to which they were legally entitled,
10 including but not limited to, hours worked, the inclusive dates of the pay period, or the name and
11 address of the legal entity that is the employer. Here, Defendants reported one entity as the “Payroll
12 Employer” and another as the “Controlling Employer.” It is not possible, from the wage statement alone,
13 to determine the legal name and address of the “Employer.” The payroll company is not the “employer,”
14 a matter which is rather settled law, but not obvious from the wage statement alone. See, Goonewardene
15 v. ADP, LLC, 6 Cal.5th 817 (2019); Futrell v. Payday Cal., Inc., 190 Cal.App.4th 1419 (2010).

16 60. The failure of Defendants to provide compliant wage statements violates section 226(a)
17 of the Code. The failure caused them injury by depriving them of information to which they are legally
18 entitled. Accordingly, Plaintiff and Class Members are entitled to damages in an amount according to
19 proof and costs and reasonable attorney’s fees in accordance with the provisions of Code section 226(e),
20 all in a sum according to proof. Plaintiff is entitled to an amount according to proof of at least \$50, not
21 including interest thereon, reasonable attorneys’ fees and cost of suit.

22 **THIRD CAUSE OF ACTION**

23 (Damages for Unpaid Overtime Compensation,
24 Code §§ 510, 515 and 1198

25 On Behalf of Plaintiff and the Code Class Against All Defendants)

26 61. Plaintiff realleges and incorporates herein by reference the allegations contained in this
27 Complaint as though fully set forth herein.

28 62. Plaintiff, as well as the Code Class, worked many hours for Defendants, including
overtime, without prompt and/or full compensation for work performed, as required by law. Plaintiff

1 and Aggrieved Employees were routinely deprived of thirty minutes of compensation for services, as
2 Defendants required half hour meal break deductions from daily wages, even though during meal breaks
3 the crew were required to respond to colleagues' queries, whether by walkie-talkies, cell phone "apps",
4 or otherwise. For example, with respect to walkie-talkies, Plaintiff and crew were issued specific
5 devices for each span of service for TNA, and TNA kept track of which device was issued to each
6 member of the crew so Defendants could account for each of the devices which were issued to crew for
7 their use while working for TNA. At the conclusion of their service, each member of the crew returned
8 the walkie-talkie which they had received for use during the project to the appropriate TNA employee,
9 who noted the check in. TNA would routinely rent these walkie-talkie devices from a third party which
10 charged a significant amount were all such walkie-talkie devices not returned at the completion of the
11 rental period.

12 63. On account of the foregoing, including the late payment of wages, Plaintiff and the Code
13 Class are entitled to recover an amount according to proof. Plaintiff and the Code Class are also entitled
14 to recover costs and reasonable attorneys' fees under section 1194 of the Code.

15 **FOURTH CAUSE OF ACTION**

16 (Damages for Unpaid Minimum Wages,
17 Code §§ 510, 1194, 1194.2, 1197, 1197.2, and 1198
18 On Behalf of Plaintiff and the Code Class Against All Defendants)

19 64. Plaintiff realleges and incorporates herein by reference the allegations contained in this
20 Complaint as though fully set forth herein.

21 65. Plaintiff and the Code Class worked many hours for Defendants, without proper, full
22 compensation for work performed, as required by law. For example, Defendants routinely made thirty-
23 or sixty-minute deductions from the daily work of each Aggrieved Employee to whom a walkie-talkie
24 had been issued, all on account of the faux meal breaks described herein.

25 66. On account of the foregoing, including the late payment of wages, Plaintiff and the Code
26 Class are entitled to recover liquidated damages under section 1194.2 of the Code in an amount
27 according to proof. Plaintiff and Aggrieved Employees are also entitled to recover costs and reasonable
28 attorneys' fees under section 1194 of the Code.

FIFTH CAUSE OF ACTION

(Failure to Provide Duty-Free Meal Breaks, Code §§ 226.7 and 512
On Behalf of Plaintiff And the 17200 Class And Against All Defendants)

67. Plaintiff realleges and incorporates herein by reference the allegations contained in this Complaint as though fully set forth herein.

68. Code section 226.7 requires an employer to pay an additional hour of compensation for each meal period the employer fails to provide a timely and uninterrupted meal period. Employees are entitled to meal period of at least thirty 30 minutes per 6-hour work period.

69. Upon information and belief, neither the proposed 17200 class nor the Aggrieved Employees the 17200 Class have been timely compensated in full for their services. Plaintiff and the 17200 Class consistently worked more than 6-hour and/or 12-hour shifts. However, they were required to keep their walkie talkies or radios on their persons, always turned on and audible, including their rest periods and meal breaks and/or they were precluded from leaving the set during their breaks. Accordingly, they were denied their breaks and are entitled to an additional thirty minutes of wages for each faux meal break. Plaintiff, Aggrieved Employees and the members of the Code Class consistently worked more than 6-hour and/or 12-hour shifts. However, they were required to keep their walkie talkies, radios and/or cell phones on their persons, always turned on and audible, including during their rest periods and meal breaks and/or they were precluded from leaving the set and its immediate environs during their breaks, all due to the requirements of the Filmmakers Code of Professional Responsibility, a copy of which is affixed hereto as Exhibit 3, Paras. 6 and 14. Accordingly, they were denied their breaks and are entitled to an additional thirty minutes of wages for each faux meal break, funds which remain unpaid.

70. TNA kept records of each individual member of the crew to whom a walkie-talkie was issued so that it could insure the return to it of the device.

71. After the Augustus decision, some motion picture production companies such as Warner Bros. claim to have initiated a process under which they would advised employees, in writing, that they need not respond to walkie-talkie calls during breaks. TNA does not claim to have undertaken any such initiative.

72. Pursuant to Code section 226.7, Plaintiff and Class Members are entitled to damages in

1 an amount equal to one hour of wages per missed meal break, in an amount according to proof.

2
3 **SIXTH CAUSE OF ACTION**

4 (Failure to Provide Duty-Free Rest Breaks, Code §§ 226.7
5 On Behalf of Plaintiff And the 17200 Class Against All Defendants)

6 73. Plaintiff realleges and incorporates herein by reference the allegations contained in this
7 Complaint as though fully set forth herein.

8 74. Code Section 226.7 requires an employer to pay an additional hour of compensation for
9 each rest period the employer fails to provide a compliant rest period. Employees are entitled to a rest
10 period of ten minutes for every four hours worked or major fraction thereof, all as detailed in Brinker.

11 75. Upon information and belief, neither the proposed 17200 class nor the Aggrieved
12 Employees the 17200 Class have been timely compensated in full for their services. Plaintiff and the
13 17200 Class consistently worked more than 6-hour and/or 12-hour shifts. However, they were required
14 to keep their walkie talkies or radios on their persons, always turned on and audible, including their faux
15 rest periods and meal breaks and/or they were precluded from leaving the set during their breaks.
16 Accordingly, they were denied their breaks and are entitled to additional compensation for each faux rest
17 break. Defendants have never paid an employee for a missed, truncated or tardy rest break.

18 76. Pursuant to Code section 226.7, Plaintiff and the 203 Class are entitled to damages in an
19 amount equal to one hour of wages per missed rest break, in an amount according to proof.

20 **SEVENTH CAUSE OF ACTION**

21 (Unfair Business Practices On Behalf of Plaintiff and the 17200 Class Members Against All Defendants)

22 77. Plaintiff realleges and incorporates herein by reference the allegations contained in this
23 Complaint as though fully set forth herein.

24 78. Business and Professions Code section 17200 et seq. prohibits acts of unfair competition,
25 including any “unlawful, unfair, or fraudulent business act or practice.” Cal. Bus. & Prof. Code § 17200
26 et seq. Plaintiff alleges that Defendants have engaged in unfair business practices in California by the
27 above-described failure to pay all accrued overtime.

28 79. Defendants’ violations of the California wage and hour laws constitutes a business
practice because Defendants’ acts and omissions were done repeatedly over a significant period, and in a
systematic manner, to the detriment of Plaintiff, the proposed 17200 Class and Aggrieved Employees.

80. Defendants have avoided payment of wages and overtime wages and other benefits required by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage Order. Upon information and belief, Aggrieved Employees and the 17200 Class have not been timely compensated in full for their services. Plaintiff and the 17200 Class consistently worked more than 6-hour and/or 12-hour shifts. However, they were required to keep their cell phones, walkie talkies and/or radios on their persons, always turned on and audible, including their rest periods and meal breaks and/or they were precluded from leaving the set during their breaks. Accordingly, they were denied their breaks and are entitled to an additional thirty minutes of wages for each faux meal break.

81. As a result of Defendants' unfair and unlawful business practices, Defendants have reaped unfair and illegal profits during the relevant time herein at the expense of Plaintiff and the Aggrieved Employees and members of the public. Defendants should be made to disgorge their ill-gotten gains and to restore them to Plaintiff and Aggrieved Employees.

82. The actions of Defendants entitle Plaintiff to seek the remedies available under section 17200 et seq. Plaintiff seeks full restitution of said amounts from Defendants, as necessary and according to proof, to restore all amounts—including interest—withheld, acquired, or converted by Defendants by means of the unfair practices complained of herein. Plaintiffs, on behalf of themselves, as well as on behalf of the public, further seeks attorney's fees and costs pursuant to sections 218.5 of the Labor Code and 1021.5 of the Code of Civil Procedure. In addition, Plaintiff seeks the appointment of a receiver as necessary.

EIGHTH CAUSE OF ACTION

(Failure to Provide Employment Records Upon Request -- Code § 226(b) and 432
On Behalf of Plaintiff Against Defendants)

83. Plaintiff realleges and incorporates herein by reference the allegations contained in this Complaint as though fully set forth herein.

84. Pursuant to Code section 226(b) and 432, an employer shall afford current and former employees the right to inspect or copy the records pertaining to that current or former employee, upon reasonable request to the employer.

85. Plaintiff requested that Defendants permit inspection or copying of his employment records pursuant to Code section 226(b). Defendants failed to timely provide Plaintiff with an

1 opportunity to inspect or copy their employment records within 21 days of their requests. Defendants
2 failed to timely produce all required records.

3 86. Pursuant to Code Sections 226(b) and (f), Plaintiff is entitled, and hereby seeks to recover
4 from Defendants a seven-hundred-fifty-dollar (\$750) penalty for their violation of § 226(b), reasonable
5 attorney's fees, and the costs of bringing this cause of action.

6 **NINTH CAUSE OF ACTION**

7 (Failure to Provide Employment Records Upon Request Code §1198.5
8 On Behalf of Plaintiff Against Defendants)

8 87. Plaintiff realleges and incorporates herein by reference the allegations contained in this
9 Complaint as though fully set forth herein.

10 88. Pursuant to Code section 1198.5, an employer shall afford current and former employees
11 the right to inspect or copy the personnel records pertaining to that current or former employee, upon
12 reasonable request to the employer.

13 89. Plaintiff has requested that Defendants permit inspection or copying of their personnel
14 records pursuant to Code section 1198.5.

15 90. Defendants failed to timely produce all required records.

16 91. Pursuant to Section 1198.5(k), Plaintiff is entitled, and hereby seeks to recover from
17 Defendants a seven-hundred-fifty-dollar (\$750) penalty per Defendant, reasonable attorney's fees, and
18 the costs of bringing this cause of action.

19 **TENTH CAUSE OF ACTION**

20 Code § 2698 et seq. Civil Penalties
21 (On Behalf of Plaintiff, the California Labor & Workforce Development Agency and Aggrieved
22 Employees Against All Defendants)

22 92. Plaintiff realleges and incorporates herein by reference the allegations contained in this
23 Complaint as though fully set forth herein.

24 93. Pursuant to section 2699.3(a)(1) of the Code, on May 3, 2021, Plaintiff submitted his
25 PAGA Claim Notice online to the California Labor and Workforce Development Agency ("LWDA")
26 and notified the LWDA of the specific provisions of the Code alleged to have been violated by
27 Defendants, including the theories set forth in the Complaint. Also, on that day, Plaintiff gave written
28 notice by certified mail to Defendants' Registered Agent for Service of Process (Lawrence R.

1 Goodfriend) and Erich Joiner of the specific provisions of the Code alleged to have been violated by
2 Defendants. On November 1, 2021, Plaintiff submitted an Amended PAGA Claim Notice to the LWDA
3 outlining further facts and allegations surrounding Defendants' violations of the Code by attaching a
4 copy of the First Amended Complaint.

5 94. Plaintiff seeks to represent himself and other California employees for the period
6 commencing one year prior to the submission of Plaintiff's PAGA Claim Notice to the California Labor
7 & Workforce Development Agency ("LWDA") on May 3, 2021 (the "Aggrieved Employees").

8 95. At all relevant times, California Labor Code section 2699.3(a)(2)(A) provided:

9 The agency shall notify the employer and the aggrieved employee or representative by
10 certified mail that it does not intend to investigate the alleged violation within 60 calendar
11 days of the postmark date of the notice received pursuant to Paragraph (1). Upon receipt
12 of that notice or if no notice is provided within 65 calendar days of the postmark date of
the notice given pursuant to Paragraph (1), the aggrieved employee may commence a
civil action pursuant to Section 2699.

13 Cal. Lab. Code § 2699.3(a)(2)(A).

14 96. As sixty-five (65) calendar days of the postmark date of the notice sent by Plaintiff has
15 passed, Plaintiff may "commence a civil action pursuant to Section 2699." Cal. Lab. Code §
16 2699.3(a)(2)(A). More than sixty-five calendar day have passed since Plaintiff gave written notice of
17 the PAGA violations to the LWDA and Defendants.

18 97. Plaintiff contends that the PAGA enables him to recover civil penalties, as well as
19 attorney's fees and costs, from Defendants, through a civil action on behalf of himself and other
20 Aggrieved Employees.

21 98. Plaintiff seeks to recover the PAGA civil penalties through a representative action
22 permitted by PAGA and the California Supreme Court in Arias v. Superior Court, 46 Cal. 4th 969
23 (2009). Therefore, class certification of the PAGA claims is not required.

24 99. Plaintiff seeks or will seek civil penalties pursuant to PAGA for violations of the
25 following California Labor Code provisions: Sections 201.3, 201.5, 203, 204, 204, 210, 221, 226,
26 226.7, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, 2802, and 2699 et seq. of the California Labor
27 Code and the applicable Wage Order. For further example, Defendants are responsible for the following
28 matters outlined in Paras. 84-88, below.

1 100. Failure to pay wages and/or final wages in violation of Labor Code §§ 201.5 and 203.
2 With respect to violations of Labor Code § 201.5, the failure of Defendants to make final payments
3 within the time provided for has been and is “willful” within the meaning of such word as used in
4 Section 203 of the California Labor Code and that, accordingly, each Aggrieved Employee who was not
5 timely paid his or her final wages is entitled to civil penalties. Aggrieved Employees were not paid all
6 wages due to them and upon information and belief some were still owed such wages upon separation or
7 termination of employment with Defendants. Code section 2699(f)(2) imposes a civil penalty of \$100
8 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved
9 Employee for subsequent violations for all Code provisions for which a civil penalty is not specifically
10 provided.

11 101. Failure to timely pay wages during employment in violation of Labor Code §§ 201.3,
12 204, and 210. Aggrieved Employees were not timely compensated during their employment by the
13 times prescribed by section 201.3, i.e., a weekly basis. The failure of Defendants to make timely
14 payments within the time provided for has been and is “willful” within the meaning of such word as
15 used in Section 210 of the California Labor Code as, among other reasons, the Defendants consistently
16 paid workers without reference to their faux meal breaks and were otherwise untimely, due to other
17 circumstances, as alleged herein. Accordingly, each Aggrieved Employee who was not timely paid their
18 timely wages during their employment is entitled to civil penalties. Labor Code section 210 provides for
19 a penalty of \$100 for each initial violation and \$200 for each subsequent, or willful or intentional
20 violation as well as 25 percent of the amount unlawfully withheld.

21 102. Failure to provide itemized wage statements in violation of Labor Code § 226(a).
22 Aggrieved Employees have not been provided wage statements as required by Code section 226(a). The
23 foregoing was the intentional misconduct of Defendants that was intended to mislead and injure
24 Aggrieved Employees insofar as they were subjected to confusion and deprived of information to which
25 they were legally entitled. Section 226(e) provides that any employee who suffers injury because of a
26 knowing and intentional failure by the employer to comply with its obligation to provide wage
27 statements containing all the information referenced above is entitled to recover. Section 226.3 provides
28 for a civil penalty of \$250 per employee per violation in an initial violation and \$1,000 per employee for

1 each violation in a subsequent violation, for which the employer fails to provide the employee a wage
2 deduction statement or fails to keep the records required in subdivision (a) of Section 226.

3 103. Failure to pay wages in violation of Labor Code §§ 510, 558, 1194, and 1198. Both late
4 payment and non-payment of wages violates the state statutes requiring the payment of a minimum
5 hourly wage. Plaintiff and Aggrieved Employees were not paid all wages due to them timely and for all
6 hours worked, Defendants perhaps claiming the repetitive errors were due to the failure of its payroll
7 systems. Code section 558 imposes a civil penalty in addition to any other penalty provided by law of
8 \$50 for initial violations for each underpaid employee for each pay period for which the employee was
9 underpaid in addition to an amount sufficient to recover unpaid wages, and \$100 for subsequent
10 violations for each underpaid employee for each pay period for which the employee was underpaid in
11 addition to an amount sufficient to recover underpaid wages.

12 104. Failure to keep complete and accurate payroll records. Failure to keep complete and
13 accurate payroll records relating to Aggrieved Employees in accordance with Code section 1174(d).
14 Willful failure to maintain accurate and complete records required by section 1174(d) is subject to a civil
15 penalty of \$500. Cal. Lab. Code § 1174.5.

16
17 **ELEVENTH CAUSE OF ACTION**

18 (Fair Labor Standards Act On Behalf of Plaintiff and Collective
19 Action Members Against All Defendants)

20 105. Plaintiff realleges and incorporates herein by reference the allegations contained in this
21 Complaint as though fully set forth herein.

22 106. Plaintiff is informed and believes, and on that basis allege, that Defendants are employers
23 engaged in an enterprise in interstate commerce pursuant to the Fair Labor Standards Act (“FLSA”), 29
24 U.S.C. § 201 *et seq.* Defendants’ participation in interstate commerce is substantial, in excess of
25 \$1,000,000 per year.

26 107. Plaintiff was not timely paid his wages. Plaintiff and Collective Action Members worked
27 many hours each day during their employment as herein alleged.

28 108. Under the FLSA, Plaintiff and Collective Action Members are entitled to recover from
Defendants their liquidated damages for hours worked, as well as costs and attorney’s fees.

1 109. Defendants failed to compensate Plaintiff and Collective Action Members as required by
2 the FLSA.

3 110. Defendants' violations were willful and intentional.

4 111. Plaintiff and Collective Action Members are entitled to damages for unpaid wages and/or
5 the associated liquidated damages in an amount to be proven at trial.

6 112. Plaintiff brings this claim on a collective-action basis pursuant to the FLSA. The FLSA
7 permits an employee to bring an action for unpaid wages on "behalf of himself . . . and other employees
8 similarly situated," so long as all similarly situated employees "give[] [their] consent in writing to
9 become . . . a party." 29 U.S.C. § 216(b). Pursuant to the FLSA, Plaintiff seek to represent a Collective
10 Action.

11 **WHEREFORE**, Plaintiff prays judgment as follows:

12 1. That the Court certify the Classes.

13 2. That, under the First Cause of Action for Continuing Wages, it be adjudged that the
14 failure of Defendants to make payment of Plaintiff's and the Code Class Members' wages was in
15 violation of section 201.3, 201.5, 203 and/or 204 of the Code, and was "willful" as that word is used in
16 section 203 of the Code, and that the Court enter judgment against Defendants in favor of Plaintiff and
17 Code Class Members. That judgment be entered in favor of Plaintiff and the 203 Class in an amount
18 according to law and proof, interest thereon, and costs and reasonable attorneys' fees in accordance
19 with the provisions of Code section 218.5.

20 3. That, under the Second Cause of Action for Failure to Provide Compliant Wage
21 Statements, this Court enter judgment in favor of Plaintiff and 226 Class Members against Defendants.
22 That judgment be entered in favor of Plaintiff of at least \$50 and the 226 Class in an amount according
23 to proof, and costs and reasonable attorneys' fees in accordance with the provisions of Code section
24 226(e).

25 4. That, under the Third Cause of Action for Failure to Pay Overtime, this Court enter
26 judgment in favor of Plaintiff and the Code Class against Defendants in the amount of unpaid overtime
27 and damages according to proof, interest thereon, and costs and reasonable attorneys' fees pursuant to
28 the applicable Code requirements.

1 5. That, under the Fourth Cause of Action for Failure to Pay Minimum Wages, this Court
2 enter judgment in favor of Plaintiff and the Code Class against Defendants in the amount of unpaid
3 minimum wages and liquidated damages according to proof, interest thereon, and costs and reasonable
4 attorneys' fees pursuant to the applicable Code requirements, including Code sections 1194 and 1194.2.

5 6. That, under the Fifth Cause of Action, this Court enter judgment in favor of Plaintiff and
6 the 17200 Class in an amount according to proof and award them their damages, penalties, and costs of
7 suit.

8 7. That, under the Sixth Cause of Action, this Court enter judgment in favor of Plaintiff and
9 the 17200 Class in an amount according to proof and award them their damages, penalties, and costs of
10 suit.

11 8. That, with respect to the Seventh Cause of Action for Unfair Competition, this Court
12 enter judgment in favor of Plaintiff and the 17200 Class against Defendants in an amount according to
13 proof. Plaintiff seeks full restitution from Defendants, as necessary and according to proof, to restore all
14 amounts—including interest—withheld, acquired, or converted by Defendants by means of the unfair
15 practices complained of herein. Plaintiffs, on behalf of themselves, as well as on behalf of the public,
16 further seeks attorney's fees and costs pursuant to sections 218.5 of the Code and 1021.5 of the Code of
17 Civil Procedure. In addition, Plaintiff seek the appointment of a receiver as necessary.

18 9. That, with respect to the Eighth Cause of Action, this Court enter judgment in favor of
19 each Plaintiff against Defendants of \$750 per Defendant, reasonable attorney's fees, and the costs of
20 bringing this cause of action under Labor Code Section 226(b) and (f).

21 10. That, with respect to the Ninth Cause of Action, this Court enter judgment in favor of
22 each Plaintiff against Defendants of \$750 per Defendant, reasonable attorney's fees, and the costs of
23 bringing this cause of action pursuant to Labor Code Section 1198.5(k).

24 11. That, with respect to the Tenth Cause of Action for Violation of the Code Private
25 Attorney General Act, that this Court award Plaintiff, the State of California LWDA, and other former
26 and current Aggrieved Employees their civil penalties, attorney's fees, and costs of suit, all according to
27 proof, pursuant to the claims articulated herein, including sections 201, 202, 203, 204, 210, 221, 226,
28 226.7, 432, 510, 558, 558.1, 1174, 1194, 1198, 1198.5, 2698, 2802 and 2698 et seq. of the Code.

1 12. That, with respect to the Eleventh Cause of Action for Violation of the FLSA, that this
2 Court award Plaintiff and others who join this action their wages, liquidated damages, attorney's fees,
3 and costs of suit, as the case may be, all according to proof.

4 For such further relief as the Court may order, including attorney's fees, costs, and interest
5 pursuant to Labor Code sections 218.5 and 218.6, and Code of Civil Procedure section 1021.5, in an
6 amount according to proof.

7 DATED: December 13, 2021

HARRIS & RUBLE



Alan Harris
Attorney for Plaintiff

Index to Exhibits

Exhibit 1 – 1957 Memo re employee status of fire department workers

Exhibit 2 – Partially redacted copy of the final check to Plaintiff for his work on the Production

Exhibit 3 – Filmmakers’ Code Of Professional Responsibility

Exhibit 4—Plaintiff’s FLSA consent

Exhibit 1

ASSOCIATION OF MOTION PICTURE PRODUCERS INC.

6480 BEVERLY BOULEVARD

HOLLYWOOD 48, CALIFORNIA

OLIVE 3-2200

ERIC JOHNSTON
PRESIDENT

V. FRANK FREEMAN
CHAIRMAN OF THE BOARD
JAMES S. HOWIE
SECRETARY-TREASURER

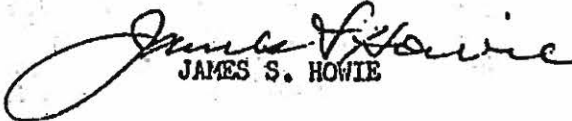
February 6, 1957

MEMORANDUM TO: ALL STUDIO COMPTROLLERS, PRODUCTION MANAGERS, and
LOCATION MANAGERS - also Morrie Weiner - Chief Wm. Goss (Fire Dep't)
and Lynn White - Deputy Chief of Police
SUBJECT: INCREASE IN SALARY SCALE AND CHANGE IN METHOD OF EMPLOYMENT
FOR OFF-DUTY POLICEMEN AND FIREMEN:

This is to advise each of you, that at a meeting of the Board of Directors of this Association, held Monday, February 4, 1957, the Board unanimously approved the following policy re: the base pay, method of payment, etc., for policemen and firemen when these men are employed by our studios on the days they are not on official duty for their respective City or County Police or Fire Departments:

- (1) The base pay for policemen and firemen, when these men are employed in their respective capacities by a studio on their days off duty, shall be increased from \$20.00 to \$24.00 a day - based on a minimum call of eight hours, and with quarter checks for each two hours, or fraction thereof, of overtime;
- (2) That these people, when so employed, should be put on the studio payroll, and the usual deductions shall be made, the same as for any other employee;
- (3) Motorcycle officers or firemen, who are asked to furnish motorcycles or other equipment, shall continue to receive the same compensation for the use of their vehicles, as at present, hence their base pay for riding, etc., shall merely be increased \$4.00 per eight hour day.

This new salary scale and method of employment, should be made effective beginning on the first Monday in March (March 4th) 1957.


JAMES S. HOWIE

JSH:mk

Exhibit 2

Employee Name TIMOTHY P O'CAIN			Social Security No. XXX-XX-REDACT		Pay Period 10/21/2020 - 10/21/2020		Check Date 11/03/2020		Check No. 602110201	
Deductions			Cur Amt	YTD Amt	Deductions		Current	YTD Amt		
Federal Income Tax			57.50	559.23					Current Taxable	
FICA			46.46	329.14					Current Non-Tax	
Medicare			10.86	76.97					Current Earnings	
California SDI			7.49	53.09					Current Deductions	
California State Tax			16.47	212.52					Net Wages	
									YTD Taxable	
									YTD Non-Tax	
									YTD Earnings	
									YTD Deductions	
									YTD Net Wages	

*Your Federal Taxable Wages this period are \$749.29

Controlling Employer		TOOL OF NORTH AMERICA LLC		Batch	1130428	Extra Withholding	\$0.00	Res State	CA
Job Type		COMMERCIAL		Client Job #	220058	Pay Frequency	W	State Allow	1
Job Name		FORD YE #220058		Federal Filing Status	REDACTED				
Work Date	Union #	Location	Description	Rate	Hours/Units	Amount			
10/21/2020 - 10/21/2020	NON	CA-LAC	FIRE SAFETY ADVISORS-STRAIGHT-TIME	56.550000	8.00	452.40			
10/21/2020 - 10/21/2020	NON	CA-LAC	FIRE SAFETY ADVISORS-TIME-AND-ONE-HALF	84.825000	3.50	296.89			

Controlling Employer :	TOOL OF NORTH AMERICA LLC, 2210 BROADWAY , SANTA MONICA, CA, 90404	Total Worked Hours	Total Hours	Total Gross
Net Check: 610.51		11.50	11.50	749.29

NEW CAPS, LLC
2300 EMPIRE AVE, 5TH FL
BURBANK, CA 91504

Bank of America
Chicago, IL

70-2328/719 602110201

Date	Amount
*****	*****

PAY *****

TO THE ORDER OF

— TIMOTHY P O'CAIN

— REDACTED

—

—

VOID

Exhibit 3

FILMMAKERS' CODE OF PROFESSIONAL RESPONSIBILITY

TO OUR COMPANIES: Filming on location generally means utilizing property that is someone else's house, store, etc., or a public street, sidewalk or other facility. Production company personnel are guests in such places, and are obligated to conduct themselves as such, and treat the public and the location with courtesy. It should not be expected that everyone in the surrounding environment will alter their lives to accommodate the needs of film production. If we do not all work toward improving our relationship with the local communities in which we work, more production will leave Southern California, resulting in fewer jobs for all.

TO THE PUBLIC: If you find this production company is not adhering to the Filmmaker's Code of Professional Responsibility, please call FilmL.A. at 213-977-8600. If calling after normal business hours, you will still be able to report your concerns to a FilmL.A. staff member .

1

The Filmmaker's Code of Professional Responsibility will be attached to every permit, and must be shown to any member of the public who asks.

2

Production companies arriving on location in or near a residential neighborhood should enter the area no earlier than the time stipulated on the permit, and park one by one, turning engines off as soon as possible. Cast and crew must observe designated parking areas.

3

When production passes that identify employees are issued, every crew member must wear the pass while at the location.

4

Moving or towing vehicles is prohibited without the express permission of the municipal jurisdiction or the vehicle owner.

5

Production vehicles may not block driveways without the express permission of the municipal jurisdiction or the driveway owner.

6

Meals must be confined to the area designated in the location agreement or permit. Individuals must eat within the designated meal area. All trash must be disposed of properly upon completion of the meal.

7

Removing, trimming and or cutting of vegetation or trees is prohibited unless approved by the owner, or in the case of parkway trees, the local municipality and the property owner.

8

All catering, crafts service, construction, strike and personal trash must be removed from the location.

9

All signs erected or removed for filming purposes will be removed or replaced upon completion of the use of the location, unless stipulated otherwise by the location agreement or the permit.

10

When departing the location , all signs posted to direct the company to the location must be removed.

11

Noise levels should be kept as low as possible. Generators should be placed as far as practical from residential buildings. **Do not let engines run unnecessarily.**

12

All members of the production company should wear clothing that conforms to good taste and common sense. Shoes and shirts must be worn at all times.

13

Crew members must not display signs, posters or pictures that do not reflect common sense and good taste.

14

Cast and crew are to remain on or near the area that has been permitted. **Do not trespass onto a neighboring resident's or merchant's property.**

15

Cast and crew must not bring guests or pets to the location, unless expressly authorized in advance by the production company.

16

Designated smoking areas must be observed, and cigarettes must always be extinguished in butt cans.

17

Cast and crew must refrain from using lewd or offensive language within earshot of the general public.

18

Cast and crew vehicles parked on public streets must adhere to all legal requirements unless authorized by the film permit.

19

Parking is prohibited on both sides of public streets unless specifically authorized by the film permit.

20

The company must comply with the provisions of the permit at all times.

Exhibit 4

FLSA CONSENT FORM

Pursuant to the provisions of 29 U.S.C. § 216(b), the Fair Labor Standards Act, I hereby consent to be a party plaintiff to this action.

3/22/2021

Date

Timothy P. O'Cain

Print Name

DocuSigned by:

Timothy P. O'Cain

289DBCC8E33043F...

Signature

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PROOF OF SERVICE

I am attorney for the plaintiff herein, over the age of eighteen years, and not a party to the within action. My business address is Harris & Ruble, 655 North Central Avenue, 17th Floor, Glendale, California 91203. On December 13, 2021, I served the within documents:

SECOND AMENDED COMPLAINT

Hand Delivery: I caused such envelope to be delivered by hand in person to:

N/A

Facsimile: I caused such envelope to be delivered by e-mail or fax to:

N/A

Electronic Service: Based on a court order, I cause the above-entitled document(s) to be served through Case Anywhere addressed to all parties appearing on the electronic service list for the above-entitled case and on the interested parties in this case:

Seth Pierce
Stephen A. Rossi
Mitchell Silberberg & Knupp LLP
2049 Century Park East, 18th Floor
Los Angeles, CA 90067

I declare under penalty of perjury that the above is true and correct. Executed on December 13, 2021, at Los Angeles, California.



Lin Zhan