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

EARL RHODES and SALVADOR
RODRIGUEZ, individually, and on behalf of
other members of the general public similarly
situated;

Plaintiff,

vs.

CAVOTEC DABICO US INC., a Delaware
corporation; CAVOTEC INET US INC., a
Delaware corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 30-2021-01177305-CU-OE-CXC

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194 and 1197 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of Labor Code § 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004); and
- (9) Violation of California Business and Professions Code §§ 17200, *et seq.*

COMES NOW, Plaintiffs EARL RHODES and SALVADOR RODRIGUEZ (collectively, "Plaintiffs") hereby submit their Complaint against Defendants CAVOTEC DABICO US INC., CAVOTEC INET US INC., and DOES 1 through 100, inclusive; (collectively, "Defendants"), individually, and on behalf of members of the general public similarly situated, allege as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court "original jurisdiction in all other causes" except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over the violations of PAGA and the Labor Code §§ 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802.

3. This Court has jurisdiction over all Defendants because, upon information and belief, each party is either a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendants transact business and/or maintain offices, have agents, and transact business in the County of Orange.

PARTIES

5. Plaintiffs EARL RHODES and SALVADOR RODRIGUEZ are individuals residing in the State of California. Plaintiffs were employed by Defendants within the statutory time period.

1 6. Defendants CAVOTEC DABICO US INC. and CAVOTEC INET US INC., at all
2 times herein mentioned, were and are, upon information and belief, corporations organized and
3 existing under the laws of the State of Delaware, and transacts business throughout the State of
4 California, including the County of Orange.

5 7. At all relevant times, Defendants were the “employers” of Plaintiffs within the
6 meaning of all applicable state laws and statutes.

7 8. At all times herein relevant, Defendants were the agents, partners, joint venturers,
8 representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each of
9 the other, and at all times relevant hereto were acting within the course and scope of their
10 authority as such agents, partners, joint venturers, representatives, servants, employees,
11 successors, co-conspirators and assigns, and all acts or omissions alleged herein were duly
12 committed with the ratification, knowledge, permission, encouragement, authorization and
13 consent of each defendant designated herein.

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

22 10. Plaintiffs further allege that Defendants, including the unknown defendants
23 identified as DOES, directly or indirectly controlled or affected the working conditions, wages,
24 working hours, and conditions of employment of Plaintiffs and the other class members so as to
25 make each of said Defendants employers and employers liable under the statutory provisions set
26 forth herein.

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1 **CLASS ACTION ALLEGATIONS**

2 11. Plaintiffs bring this action on their own behalf and on behalf of all other members
3 of the general public similarly situated, and, thus, seeks class certification under Code of Civil
4 Procedure section 382.

5 12. The proposed class is defined as follows:

6 All current and former hourly-paid or non-exempt employees of Defendants
7 within the State of California at any time during the period from July 11, 2016 to
8 final judgment.¹

9 13. Plaintiffs reserve the right to establish subclasses as appropriate.

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

12 a. Numerosity: The class members are so numerous that joinder of all class
13 members is impracticable. The membership of the entire class is unknown
14 to Plaintiffs at this time; however, the class is estimated to be
15 approximately one-hundred twenty (120) individuals and the identity of
16 such membership is readily ascertainable by inspection of Defendants'
17 records.

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

22 c. Adequacy: Plaintiffs will fairly and adequately protect the interests of each
23 class member, with whom they have a well-defined community of interest
24 and typicality of claims, as demonstrated herein. Plaintiffs have no
25 interests that are antagonistic to the other class members. Plaintiffs'

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28 ¹ Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial
Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of
action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Accordingly,
Plaintiff's claims were tolled during that time period.

attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.

e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

15. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
- b. Whether Defendants had a corporate policy and practice of failing to pay their hourly-paid or non-exempt employees within the State of California for all hours worked, missed meal and rest periods in violation of California law;
- c. Whether Defendants time keeping system rounded their hourly-paid or non-exempt employees time to deprive them of wages for all hours worked;

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- d. Whether Defendants required Plaintiffs and the other class members to work over eight (8) hours per day and/or over forty (40) hours per week and failed to pay the legally required overtime compensation to Plaintiffs and the other class members;
- e. Whether Defendants failed to include non-discretionary bonuses and incentives in Plaintiffs and the other class members' regular rate;
- f. Whether Defendants deprived Plaintiffs and the other class members of meal periods or required Plaintiffs and the other class members to work during meal periods without compensation;
- g. Whether Defendants deprived Plaintiffs and the other class members of rest periods or required Plaintiffs and the other class members to work during rest periods without compensation;
- h. Whether Defendants failed to pay minimum wages to Plaintiffs and the other class members;
- i. Whether Defendants complied with wage reporting as required by the California Labor Code, including, inter alia, section 226;
- j. Whether Defendants failed to reimburse Plaintiffs and the other class members for necessary business-related expenses and costs;
- k. Whether Defendants' conduct was willful or reckless;
- l. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, *et seq.*
- m. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- n. Whether Plaintiffs and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

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GENERAL ALLEGATIONS

16. At all relevant times set forth herein, Defendants employed Plaintiffs and other persons as hourly-paid or non-exempt employees within the State of California.

17. Defendants employed Plaintiffs as hourly-paid or non-exempt employees within the statutory time period in the State of California, County of Orange.

18. Defendants hired Plaintiffs and the other class members and classified them as hourly-paid or non-exempt employees and failed to properly calculate and compensate them for all hours worked, missed meal and rest periods.

19. Defendants had the authority to hire and terminate Plaintiffs and the other class members, to set work rules and conditions governing Plaintiffs' and the other class members' employment, and to supervise their daily employment activities.

20. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs' and the other class members' employment for them to be joint employers of Plaintiffs and the other class members.

21. Defendants directly hired and paid wages and benefits to Plaintiffs and the other class members.

22. Defendants continue to employ hourly-paid or non-exempt employees within the State of California, including the County of Orange.

23. Plaintiffs are informed and believe, and based thereon allege, that at all times herein relevant, Defendants were advised by skilled lawyers and other professionals, employees, advisors, and consultants highly knowledgeable about California wage laws, employment and personnel practices.

24. Plaintiffs are informed and believe, and based thereon allege, that at all times herein relevant, without any justification, Defendants ignored the employment and personnel policy changes proposed by skilled lawyers and other professionals, employees, advisors, and consultants highly knowledgeable about California wage laws, employment and personnel practices.

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1 25. Plaintiffs and the other class members worked over eight (8) hours in a day, and/or
2 forty (40) hours in a week during their employment with Defendants.

3 26. Plaintiffs are informed and believe, and based thereon allege, that Defendants
4 engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or
5 non-exempt employees within the State of California. This scheme involved, *inter alia*, failing
6 to properly calculate their overtime pay and pay them for all hours worked, missed meal and rest
7 periods in violation of California law.

8 27. Plaintiffs are informed and believe, and based thereon allege, that Defendants
9 knew or should have known that Plaintiffs and the other class members were entitled to receive
10 certain wages for overtime compensation and that they were not receiving wages for overtime
11 compensation.

12 28. Plaintiffs are informed and believe, and based thereon allege, that Defendants
13 knew or should have known that Plaintiffs and the other class members were entitled to receive
14 overtime at the regular rate of pay that includes all forms of compensation instead of at just
15 hourly rate of pay.

16 29. Plaintiffs are informed and believe, and based thereon allege, that Defendants
17 failed to provide Plaintiffs and the other class members the required meal periods and rest breaks
18 during the relevant time period as required under the Industrial Welfare Commission Wage
19 Orders and thus they are entitled to any and all applicable penalties.

20 30. Plaintiffs are informed and believe, and based thereon allege, that Defendants
21 knew or should have known that Plaintiffs and the other class members were entitled to receive
22 all meal periods or payment of one additional hour of pay at Plaintiffs' and the other class
23 member's regular rate of pay when a meal period was missed, and they did not receive all meal
24 periods or payment of one additional hour of pay at Plaintiffs' and the other class member's
25 regular rate of pay when a meal period was missed.

26 31. Plaintiffs are informed and believe, and based thereon allege, that Defendants
27 knew or should have known that Plaintiffs and the other class members were entitled to receive
28 all rest periods or payment of one additional hour of pay at Plaintiffs' regular rate of pay when

1 a rest period was missed, and they did not receive all rest periods or payment of one additional
2 hour of pay at Plaintiffs' and the other class members' regular rate of pay when a rest period was
3 missed.

4 32. Plaintiffs are informed and believe, and based thereon allege, that Defendants
5 knew or should have known that Plaintiffs and the other class members were entitled to receive
6 at least minimum wages for compensation and that they were not receiving at least minimum
7 wages for all hours worked.

8 33. Plaintiffs are informed and believe, and based thereon allege, that Defendants
9 knew or should have known that Plaintiffs and the other class members were entitled to receive
10 reimbursements for all business expenses incurred in discharge of their duties.

11 34. Plaintiffs are informed and believe, and based thereon allege, that Defendants
12 knew or should have known that they had a duty to compensate Plaintiffs and the other class
13 members pursuant to California law, and that Defendants had the financial ability to pay such
14 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented
15 to Plaintiffs and the other class members that they were properly denied wages, all in order to
16 increase Defendants' profits.

17 35. At all material times set forth herein, Defendants failed to pay overtime wages to
18 Plaintiffs and the other class members. Plaintiffs and the other class members were required to
19 work more than eight (8) hours per day and/or forty (40) hours per week without overtime
20 compensation.

21 36. At all material times set forth herein, Defendants failed to provide uninterrupted
22 meal periods and rest breaks to Plaintiffs and the other class members.

23 37. At all material times set forth herein, Defendants failed to pay Plaintiffs and the
24 other class members at least minimum wages for all hours worked.

25 38. At all material times set forth herein, Defendants failed to properly compensate
26 Plaintiffs and the other class members pursuant to California law in order to increase Defendants'
27 profits.

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39. California Labor Code section 218 states that noting in Article 1 of the Labor Code shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to him under this article.”

FIRST CAUSE OF ACTION

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

**(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC., and DOES 1
through 100)**

40. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 31, and each and every part thereof with the same force and effect as though fully set forth herein.

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

42. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiffs and other class members employed by Defendants, who work(ed) more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

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

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

45. During the relevant time period set forth herein, Plaintiffs and other class members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

46. As a pattern and practice, during the relevant time period set forth herein, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiffs and other class members.

47. Defendants' pattern and practice of failing to pay Plaintiffs and other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

48. Pursuant to California Labor Code section 1194, Plaintiffs and other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

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

(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC. and Does 1 through 100)

49. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 40, and each and every part thereof with the same force and effect as though fully set forth herein.

50. During the relevant time period set forth herein, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiffs' and other class members' employment by Defendants.

51. During the relevant time period set forth herein, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

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1 52. During the relevant time period set forth herein, the applicable IWC Wage Order
2 and California Labor Code section 512(a) provide that an employer may not require, cause or
3 permit an employee to work for a work period of more than five (5) hours per day without
4 providing the employee with a meal period of not less than thirty (30) minutes, except that if the
5 total work period per day of the employee is no more than six (6) hours, the meal period may be
6 waived by mutual consent of both the employer and employee.

7 53. During the relevant time period set forth herein, the applicable IWC Wage Order
8 and California Labor Code section 512(a) further provide that an employer may not require,
9 cause, or permit an employee to work for a work period of more than ten (10) hours per day
10 without providing the employee with a second uninterrupted meal period of not less than thirty
11 (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second
12 meal period may be waived by mutual consent of the employer and the employee only if the first
13 meal period was not waived.

14 54. As a pattern and practice, during the relevant time period set forth herein,
15 Plaintiffs and other class members who were scheduled to work for a period of time no longer
16 than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent,
17 were required to work for periods longer than five (5) hours without an uninterrupted meal period
18 of not less than thirty (30) minutes and/or without a rest period.

19 55. As a pattern and practice, during the relevant time period set forth herein,
20 Plaintiffs and other class members who were scheduled to work for a period of time no longer
21 than twelve (12) hours, and who did not waive their legally-mandated meal periods by mutual
22 consent, were required to work for periods longer than ten (10) hours without an uninterrupted
23 meal period of not less than thirty (30) minutes and/or without a rest period.

24 56. As a pattern and practice, during the relevant time period set forth herein,
25 Plaintiffs and other class members who were scheduled to work for a period of time in excess of
26 six (6) hours were required to work for periods longer than five (5) hours without an
27 uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.
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57. As a pattern and practice, during the relevant time period set forth herein, Plaintiffs and other class members who were scheduled to work for a period of time in excess of twelve (12) hours were required to work for periods longer than ten (10) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

58. As a pattern and practice, during the relevant time period set forth herein, Defendants intentionally and willfully required Plaintiffs and other class members to work during meal periods and failed to compensate Plaintiffs and the other class members the full meal period premium for work performed during meal periods.

59. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay Plaintiffs and other class members the full meal period premium due pursuant to California Labor Code section 226.7.

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

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

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC. and Does 1 through 100)

62. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 53, and each and every part thereof with the same force and effect as though fully set forth herein.

63. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiffs' and other class members' employment by Defendants.

1 64. During the relevant time period set forth herein, California Labor Code section
2 226.7 provides that no employer shall require an employee to work during any rest period
3 mandated by an applicable order of the California IWC.

4 65. During the relevant time period set forth herein, the applicable IWC Wage Order
5 provides that “[e]very employer shall authorize and permit all employees to take rest periods,
6 which insofar as practicable shall be in the middle of each work period” and that the “rest period
7 time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time
8 per four (4) hours or major fraction thereof” unless the total daily work time is less than three
9 and one-half (3 ½) hours.

10 66. As a pattern and practice, during the relevant time period set forth herein,
11 Defendants required Plaintiffs and other class members to work four (4) or more hours without
12 authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

13 67. As a pattern and practice, during the relevant time period set forth herein,
14 Defendants willfully required Plaintiff sand other class members to work during rest periods and
15 failed to pay Plaintiffs and the other class members the full rest period premium for work
16 performed during rest periods.

17 68. As a pattern and practice, during the relevant time period set forth herein,
18 Defendants failed to pay Plaintiffs and the other class members the full rest period premium due
19 pursuant to California Labor Code section 226.7.

20 69. Defendants’ conduct violates applicable IWC Wage Orders and California Labor
21 Code section 226.7.

22 70. Pursuant to the applicable IWC Wage Orders and California Labor Code section
23 226.7(b), Plaintiffs and the other class members are entitled to recover from Defendants one
24 additional hour of pay at the employees’ regular hourly rate of compensation for each workday
25 that the rest period was not provided.

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FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197 and 1197.1)

(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC. and Does 1 through 100)

71. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 62 and each and every part thereof with the same force and effect as though fully set forth herein.

72. During the relevant time period set forth herein, California Labor Code sections 1194, 1197 and 1197.1 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed, is unlawful.

73. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay minimum wages to Plaintiffs and other class members as required, pursuant to California Labor Code sections 1194, 1197 and 1197.1.

74. Defendants' failure to pay Plaintiffs and other class members the minimum wage as required violates California Labor Code sections 1194, 1197 and 1197.1. Pursuant to those sections, Plaintiffs and other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

75. Pursuant to California Labor Code section 1197.1, Plaintiffs and the other class members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wage.

76. Pursuant to California Labor Code section 1194.2, Plaintiffs and other class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

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1 **FIFTH CAUSE OF ACTION**

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

3 **(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC. and Does 1 through**
4 **100)**

5 77. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
6 through 68, and each and every part thereof with the same force and effect as though fully set
7 forth herein.

8 78. During the relevant time period set forth herein, California Labor Code sections
9 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid
10 at the time of discharge are due and payable immediately, and if an employee quits his or her
11 employment, his or her wages shall become due and payable not later than seventy-two (72)
12 hours thereafter, unless the employee has given seventy-two (72) hours notice of his or her
13 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

14 79. As a pattern and practice, during the relevant time period set forth herein,
15 Defendants intentionally and willfully failed to pay Plaintiffs and other class members who are
16 no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72)
17 hours of their leaving Defendants' employ.

18 80. Defendants' pattern and practice of failing to pay Plaintiffs and other class
19 members who are no longer employed by Defendants their wages, earned and unpaid, within
20 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor
21 Code sections 201 and 202.

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

26 82. Plaintiffs and other class members are entitled to recover from Defendants the
27 statutory penalty wages for each day they were not paid, up to the thirty (30) day maximum as
28 provided by Labor Code section 203.

1 **SIXTH CAUSE OF ACTION**

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

3 **(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC. and Does 1 through**
4 **100)**

5 83. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
6 through 74, and each and every part thereof with the same force and effect as though fully set
7 forth herein.

8 84. During the relevant time period set forth herein, California Labor Code section
9 226(a) provides that every employer shall furnish each of his or her employees an accurate
10 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
11 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee
12 is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written
13 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
14 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
15 his or her social security number, (8) the name and address of the legal entity that is the employer,
16 and (9) all applicable hourly rates in effect during the pay period and the corresponding number
17 of hours worked at each hourly rate by the employee. The deductions made from payments of
18 wages shall be recorded in ink or other indelible form, properly dated, showing the month, day,
19 and year, and a copy of the statement or a record of the deductions shall be kept on file by the
20 employer for at least three years at the place of employment or at a central location within the
21 State of California.

22 85. As a pattern and practice, Defendants have intentionally and willfully failed to
23 provide Plaintiffs and other class members with complete and accurate wage statements. The
24 deficiencies include but are not limited to: the failure to include the total number of hours worked
25 by Plaintiffs and other class members.

26 86. As a result of Defendants' violation of California Labor Code section 226(a),
27 Plaintiffs and other class members have suffered injury and damage to their statutorily protected
28 rights.

1 87. More specifically, Plaintiffs and other class members have been injured by
2 Defendants' intentional and willful violation of California Labor Code section 226(a) because
3 they were denied both their legal right to receive, and their protected interest in receiving,
4 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

5 88. Plaintiffs and other class members are entitled to recover from Defendants the
6 greater of their actual damages caused by Defendants' failure to comply with California Labor
7 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

8 89. Plaintiffs and other class members are also entitled to injunctive relief to ensure
9 compliance with this section, pursuant to California Labor Code section 226(g).

10 **SEVENTH CAUSE OF ACTION**

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

12 **(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC. and Does 1 through**
13 **100)**

14 90. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
15 through 81, and each and every part thereof with the same force and effect as though fully set
16 forth herein.

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

21 92. Defendants have intentionally and willfully failed to reimburse Plaintiffs and
22 other class members for all necessary business-related expenses and costs. Plaintiffs and other
23 class members are entitled to recover from Defendants their business-related expenses and costs
24 incurred during the course and scope of their employment, plus interest accrued from the date
25 on which the employee incurred the necessary expenditures at the same rate as judgments in civil
26 actions in the State of California.

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1 **EIGHTH CAUSE OF ACTION**

2 **Violation of Labor Code Section 2698, *et seq.* (“PAGA”)**

3 **(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC. and Does 1 through**
4 **100)**

5 93. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 84 as
6 though fully set forth herein.

7 94. PAGA expressly establishes that any provision of the California Labor Code
8 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
9 departments, divisions, commissions, boards, agencies or employees for a violation of the
10 California Labor Code, may be recovered through a civil action brought by an aggrieved
11 employee on behalf of himself or herself, and other current or former employees.

12 95. On June 29, 2021, Plaintiff Salvador Rodriguez provided written notice to the
13 LWDA and Defendants of the specific provisions of the Labor Code he contends were violated,
14 and the theories supporting her contentions. Attached hereto as **Exhibit 1** and incorporated by
15 reference is a copy of the written notice to the LWDA. Plaintiff believes that on or about
16 September 2, 2021, the sixty-five (65) day notice period expired, and the LWDA did not take
17 any action to investigate or prosecute this matter. Therefore, Plaintiff has exhausted his
18 administrative remedies.

19 96. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
20 employees” as defined by California Labor Code § 2699(c) in that they are all current or former
21 employees (whether hired directly or through a staffing agency or labor contractor) of
22 Defendants who worked for Defendants at any time during the relevant time period, and one or
23 more of the alleged violations was committed against them.

24 **Failure to Pay Minimum and Overtime Wages**

25 97. At all times relevant herein, Defendants were required to compensate their non-
26 exempt employees minimum wages for all hours worked and overtime wages for all hours
27 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the
28 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

1 98. As a policy and practice, Defendants failed to compensate Plaintiffs and the other
2 aggrieved current and former employees for all hours worked, resulting in failure to pay all
3 minimum wages and overtime wages, where applicable.

4 99. As a policy and practice, Defendants failed to compensate Plaintiffs and other
5 aggrieved current and former employees for all hours worked, resulting in a failure to pay all
6 minimum wages and overtime wages, where applicable.

7 100. As a policy and practice, Defendants failed to include non-discretionary bonuses
8 and incentives in aggrieved employees' regular rate for purposes of overtime compensation.

9 101. As a policy and practice, Defendants automatically deducted meal breaks from
10 aggrieved employees' pay regardless of whether they were provided with breaks.

11 **Failure to Provide Meal Periods and Rest Breaks**

12 102. In accordance with the mandates of Labor Code §§ 226.7 and 512, Defendants
13 were required to authorize and permit their non-exempt employees to take a 10-minute rest break
14 for every four (4) hours worked or major fraction thereof, and were further required to provide
15 their non-exempt employees with a 30-minute meal period for every five (5) hours worked.

16 103. As a pattern and practice, Defendants failed to provide Plaintiffs and other
17 aggrieved current and former employees with legally-mandated meal periods and rest breaks and
18 failed to pay proper compensation for this failure.

19 **Failure to Timely Pay Wages During Employment**

20 104. At all times relevant herein, Defendants were required to pay their employees
21 within a specified time period pursuant to the mandate of Labor Code § 204.

22 105. As a pattern and practice, Defendants failed to pay Plaintiffs and other aggrieved
23 current and former employees all wages due and owing them within the required time period.

24 **Failure to Timely Pay Wages Upon Termination**

25 106. At all times relevant herein, Defendants were required to pay their employees all
26 wages owed in a timely fashion at the end of employment pursuant to California Labor Code §§
27 201 to 204.

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1 107. As a result of Defendants' Labor Code violations alleged above, Defendants
2 failed to pay Plaintiffs and the other aggrieved former employees their final wages pursuant to
3 Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to Labor Code
4 § 203.

5 **Failure to Provide Complete and Accurate Wage Statements**

6 108. At all times relevant herein, Defendants were required to keep *accurate* records
7 regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174.

8 109. As a result of Defendants' various Labor Code violations, Defendants failed to
9 keep accurate records regarding Plaintiffs and other aggrieved current and former employees.
10 For example, Defendants failed in their affirmative obligation to keep accurate records regarding
11 Plaintiffs and other aggrieved current and former employees' gross wages earned, total hours
12 worked, all deductions, net wages earned, and all applicable hourly rates and the number of hours
13 worked at each hourly rate.

14 **Failure to Reimburse Business Expenses**

15 110. At all times relevant herein, Defendants were required to reimburse their
16 employees for any and all necessary expenditures or losses incurred by the employees in direct
17 consequences of the discharge or their duties pursuant to the mandate of Labor Code §§ 2800
18 and 2802.

19 111. As a pattern and practice, Defendants failed to pay Plaintiffs and other aggrieved
20 current and former employees all business expenses incurred and owing them within the required
21 time period.

22 **Penalties**

23 112. Pursuant to California Labor Code § 2699, Plaintiffs, as individuals, and on behalf
24 of other current and former aggrieved employees, request and are entitled to recover from
25 Defendants, and each of them, civil penalties, interest, attorneys' fees and costs pursuant,
26 including but not limited to:

27 ///

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113. Penalties under California Labor Code § 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

114. Penalties under California Code of Regulations Title 8 § 11040 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

115. Penalties under California Labor Code § 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

116. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

117. An amount sufficient to recover unpaid wages under Labor Code § 558;

118. An amount sufficient to recover unpaid wages under Labor Code § 1197.1;

119. Any and all additional penalties as provided by the Labor Code and/or other statutes; and

120. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute.

NINTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, *et seq.*
(Against CAVOTEC DABICO US INC., CAVOTEC INET US INC. and Does 1 through
100)

121. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 40, and each and every part thereof with the same force and effect as though fully set forth herein.

1 122. Defendants' conduct, as alleged herein, has been, and continues to be unfair,
2 unlawful and harmful to Plaintiffs, other class members, to the general public, and Defendants'
3 competitors. Accordingly, Plaintiffs seek to enforce important rights affecting the public interest
4 within the meaning of Code of Civil Procedure section 1021.5.

5 123. Defendants' activities as alleged herein are violations of California law, and
6 constitute unlawful business acts and practices in violation of California Business & Professions
7 Code section 17200, *et seq.*

8 124. A violation of California Business & Professions Code section 17200, *et seq.* may
9 be predicated on the violation of any state or federal law. In this instant case, Defendants' policy
10 and practice of requiring Plaintiffs and other class members work overtime hours without paying
11 them proper compensation violate California Labor Code sections 510 and 1198. Additionally,
12 Defendants' policy and practice of failing to provide Plaintiffs and other class members legally
13 mandated meal and rest periods without paying them proper compensation violate California
14 Labor Code sections 226.7 and 512(a). Moreover, Defendants' policy and practice of failing to
15 timely pay wages to Plaintiffs and other class members violate California Labor Code sections
16 201 and 202. Defendants also violated California Labor Code sections 226(a), 1194, 1197, 2800
17 and 2802.

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

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

23 127. Pursuant to California Business & Professions Code section 17200, *et seq.*,
24 Plaintiffs and other class members are entitled to restitution of the wages withheld and retained
25 by Defendants during a period that commences four years prior to the filing of this Complaint;
26 an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and
27 other applicable laws; and an award of costs.

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Class Certification

1. That this action be certified as a class action;
2. That Plaintiffs be appointed as the representatives of the Class;
3. That counsel for Plaintiffs be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel, immediately upon its appointment, the names and most current contact information (names, address, telephone numbers and emails) of all class members.

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiffs and the other class members;
6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;
7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;
8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and
9. For such other and further relief as the court may deem just and proper.

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiffs and the other class members;

23

1 11. That the Court make an award to Plaintiffs and the other class members
2 of one (1) hour of pay at each employee's regular rate of compensation for each workday that
3 a meal period was not provided;

4 12. For all actual, consequential, and incidental losses and damages,
5 according to proof;

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

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

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

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

11 **As to the Third Cause of Action**

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

15 18. That the Court make an award to Plaintiffs and the other class members
16 of one (1) hour of pay at each employee's regular rate of compensation for each workday that
17 a rest period was not provided;

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

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

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

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

24 **As to the Fourth Cause of Action**

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

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

3 25. For statutory wage penalties pursuant to California Labor Code section
4 1197.1 for Plaintiffs and the other class members in the amount as may be established according
5 to proof at trial;

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

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

10 28. For liquidated damages pursuant to California Labor Code section
11 1194.2; and

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

13 **As to the Fifth Cause of Action**

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

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

20 32. For statutory wage penalties pursuant to California Labor Code section
21 203 for the other class members who have left Defendants' employ;

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

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

25 **As to the Sixth Cause of Action**

26 35. That the Court declare, adjudge and decree that Defendants violated the
27 record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage
28 Orders as to Plaintiffs and other class members, and willfully failed to provide accurate

1 itemized wage statements thereto;

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

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

5 38. For injunctive relief to ensure compliance with this section, pursuant to
6 California Labor Code section 226(g); and

7 39. For such other and further relief as the court may deem just and proper.

8 **As to the Seventh Cause of Action**

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

13 41. For actual, consequential and incidental losses and damages, according
14 to proof;

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

16 43. For punitive damages and/or exemplary damages according to proof at
17 trial;

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

19 45. For such other and further relief as the court may deem just and proper.

20 **As to the Eighth Cause of Action**

21 46. Upon the Eight Cause of Action, for civil penalties pursuant to statute as
22 set forth in Labor Code § 2698 *et seq.*, for Defendants' violations of Labor Code §§ 201, 202,
23 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197,
24 1197.1, 1198, 2800 and 2802.

25 47. Upon the Cause of Action, for costs and attorneys' fees pursuant to Labor
26 Code §§ 210, 218.5, 1194, and 2699, and any other applicable statute; and

27 48. For such other and further relief the court may deem just and proper.

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As to the Ninth Cause of Action

49. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiffs and other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiffs and the other class members, failing to pay at least minimum wages to Plaintiffs and the other class members, failing to pay Plaintiffs' and other class members' wages timely as required by California Labor Code section 201, 202.

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

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

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

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

54. For such other and further relief as the court may deem just and proper.

Dated: July 20, 2021

JUSTICE LAW CORPORATION

By: 

Douglas Han
Shunt Tatavos-Gharajeh
Talía Lux
Attorneys for Plaintiff

EXHIBIT 1

June 29, 2021

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov
State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

Re: CAVOTEC DABICO US INC. & CAVOTEC INET US INC.

Dear Representative:

We have been retained to represent Salvador Rodriguez against Cavotec Dabico US Inc. and Cavotec Inet US Inc. (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "CAVOTEC").

Mr. Rodriguez is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Rodriguez may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Cavotec Dabico US Inc. and Cavotec Inet US Inc. are Delaware corporations located at 5665 Corporate Avenue, Cypress, California 90630.

CAVOTEC employed Mr. Rodriguez as an hourly-paid non-exempt Inventory Lead during the relevant time period in the State of California. CAVOTEC directly controlled the wages, hours and working conditions of Mr. Rodriguez's employment. CAVOTEC's Logistics Manager, Juan Cadina supervised Mr. Rodriguez's work.

The "aggrieved employees" that Mr. Rodriguez may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through staffing agencies or labor contractors) of CAVOTEC within the State of California.

CAVOTEC failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

¹ Mr. Rodriguez does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. Rodriguez will amend this notice when the true names and capacities are known. Mr. Rodriguez is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. Rodriguez and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Rodriguez has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at CAVOTEC, regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

CAVOTEC has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Mr. Rodriguez and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. CAVOTEC failed to compensate Mr. Rodriguez and the other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift and during meal breaks. CAVOTEC also failed to include non-discretionary bonuses and incentives in aggrieved employees' regular rate of pay for purposes of overtime compensation. Therefore, Mr. Rodriguez and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, CAVOTEC routinely required Mr. Rodriguez and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with CAVOTEC policies and expectations, and meet customer service goals. Further, CAVOTEC failed to authorize and permit aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, CAVOTEC failed to compensate Mr. Rodriguez and other aggrieved employees all the premium wages they were owed.

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California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, CAVOTEC failed to pay Mr. Rodriguez and other aggrieved employees all wages, including for uncompensated off-the-clock work and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, CAVOTEC failed to pay Mr. Rodriguez and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, CAVOTEC did not provide Mr. Rodriguez and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from CAVOTEC were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Rodriguez and other aggrieved employees, (2) total hours worked by Mr. Rodriguez and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Rodriguez and other aggrieved employees (4) all deductions for Mr. Rodriguez and other aggrieved employees, (5) net wages earned by Mr. Rodriguez and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Rodriguez and other aggrieved employees are paid, (7) the name of the aggrieved 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 (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Mr. Rodriguez and other aggrieved employees.

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California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Rodriguez and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, CAVOTEC failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Mr. Rodriguez and other aggrieved employees.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, CAVOTEC did not provide Mr. Rodriguez and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by CAVOTEC.

We believe that Mr. Rodriguez and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

LWDA
June 29, 2021
Page 5 of 5

Mr. Rodriguez will seek these penalties and wages on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of CAVOTEC within one year of the date of this letter, as allowed by law.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read "D. Han", written over the printed name of Douglas Han.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only)

National Registered Agents, Inc.
c/o Cavotec Inet US Inc.
818 West Seventh Street, Suite 930
Los Angeles, California 90017
Agent for Service of Process for Cavotec Inet US Inc.

Chris Clayton
c/o Cavotec Dabico US Inc.
5665 Corporate Avenue
Cypress, California 90630
Agent for Service of Process for Cavotec Dabico US Inc.

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is fgonzalez@justicelawcorp.com

On July 23, 21, I served the foregoing document described as

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES

for the following case: **Rhodes, et al. v. Cavotec Dabico US Inc., et al.**
LWDA/Court Case No.: **LWDA-CM-836474-21**
30-2021-01177305-CU-OE-CXC
Orange County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

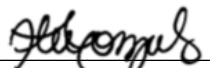
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 23, 2021, at Pasadena, California.



Flor Gonzalez