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

FILIBERTO RUIZ, as an individual and on
behalf of others similarly situated and all
aggrieved employees,

Plaintiff,

vs.

MUSTANG EXTREME
ENVIRONMENTAL SERVICES, LLC., a
Texas corporation, and DOES 1-10, inclusive,

Defendant.

Case No. 30-2021-01207211-CU-OE-CXC

Assigned to Honorable Assigned for all Purposes

CLASS ACTION CLAIMS

Judge Randall J. Sherman

CX-105

COMPLAINT FOR:

- 1. CLAIM FOR FAILURE TO PAY
OVERTIME (LAB. CODE §§
1194, 510, 1198, IWC WAGE
ORDERS 4, 7 AND 9 § 3)**
- 2. CLAIM FOR FAILURE TO PAY
MINIMUM WAGE (LAB. CODE
§ 1194)**
- 3. CLAIM FOR FAILURE TO
PROVIDE MEAL BREAKS (LAB.
CODE § 226.7; IWC WAGE
ORDERS 4, 7 AND 9, SECTION
11)**
- 4. CLAIM FOR FAILURE TO
PROVIDE REST PERIODS (LAB.
CODE § 226.7; IWC WAGE
ORDERS 4, 7 AND 9, SECTION
12)**
- 5. CLAIM FOR FAILURE TO
PROVIDE AND MAINTAIN
ACCURATE ITEMIZED WAGE
STATEMENTS (LAB. CODE §
226(a))**

1 Plaintiff Filiberto Ruiz (“Plaintiff” or “Mr. Ruiz”) make the following allegations
2 against Mustang Extreme Environmental Services, LLC, (“Defendants” or “MEE”), and DOES
3 1-10:

4 **INTRODUCTION**

5 1. Plaintiff bring this class action on behalf of all non-exempt employees (collectively
6 referred to herein as “Class Members” or “Subclass Members”) employed by Defendant and,
7 DOES 1-10 in California from the date four years prior to the filing of this Complaint through
8 the date of trial in this action.

9 2. In this action, Plaintiff, on behalf of himself and all Class Members, Subclass Members
10 seek unpaid overtime wages, minimum wages, wage statement penalties, and wages upon
11 termination. Statutory penalties, restitution, attorneys’ fees and costs, prejudgment interest and
12 other relief under California Industrial Welfare Commission (I.W.C.) Wage Order 4-2001, 8
13 Cal. Code of Reg. section 11050 (“Wage Order 4-2001”), Wage Order 7-2001, 8 Cal. Code of
14 Reg. section 11050 (“Wage Order 7-2001”), Wage Order 9-2001, 8 Cal. Code of Reg. section
15 11050 (“Wage Order 9-2001”), California Labor Code (Labor Code”) sections 510, 1174
16 1182.12, 1194, 1197, 1197.1, 1198, 2699.5, California Code of Civil Procedure section 1021.5,
17 California Business and Professions Code sections 17200 et seq. (“UCL”), and California
18 common law.

19 3. The “Class Period” is designated as the time from four years prior to the filing of this
20 Complaint through the trial of this action based upon the allegation that the violations of the
21 Labor Code and UCL, as described more fully below, have been ongoing since at least four
22 years prior to the date of the instant Complaint in this action and are continuing.

23 4. During the Class Period, Defendant had a consistent policy and/or practice of (1) failing
24 to compensate such Class Members and Subclass Members with overtime hours at the
25 appropriate rates; (2) failing to compensate Class Members and Subclass Members with
26 minimum wages; (3) failing to reimburse Class Members and Subclass Members for necessary
27 business expenses; and (4) failing to pay for meal breaks and rest breaks for premium wages.
28

1 5. Accordingly, Defendant violated UCL, with the violations of the California wage and
2 hour laws described above.

3 **GENERAL ALLEGATIONS**

4 **Parties and Venue.**

5 6. Plaintiff Mr. Ruiz, is, and at all relevant times was, a citizen and resident of the County of
6 Orange, in the State of California.

7 7. Plaintiff is informed and believes and on that basis alleges that at all relevant times
8 Mustang Extreme Environmental Services, LLC is a Texas corporation doing business in the
9 State of California with a principal place of business located at 5049 Edwards Ranch Road, Ste.
10 200, Fort Worth, Texas.

11 8. In light of the facts that the wrongful acts of this defendant occurred and the causes
12 against them arose in Orange, State of California, jurisdiction and venue is proper in Orange
13 County.

14 **Doe Allegations.**

15 9. Plaintiff does not presently know the true names and capacities of defendant named as
16 Doe 1 through Doe 10, inclusive. Plaintiff will amend this complaint, setting forth the true
17 names and capacities of these fictitious defendants, when they are ascertained. Plaintiff is
18 informed and believes and on that basis alleges that each of the fictitious defendants have
19 participated in the acts alleged in this complaint to have been done by the named defendants.

20 **Vicarious Liability.**

21 10. Unless otherwise indicated, each defendant herein sued is the agent, co-conspirator,
22 joint venturer, partner, and/or employee of every other defendant and, as alleged, has been acting
23 within the course and scope of said agency, conspiracy, joint venture, partnership, and/or
24 employment, with the knowledge and/or consent of co-defendants, and each of them. Plaintiff is
25 informed and believes and thereon alleges that each defendant has authorized and/or ratified the
26 wrongful activities of each of the remaining defendants.

1 **COMMON ALLEGATIONS TO ALL CAUSES OF ACTION**

2 11. Defendant MEE is a company delivering environmental solutions including complex
3 in-ground in-ground lining systems, above ground storage tanks, secondary containment,
4 composite ground matting and oilfield water treatment and storage services.

5 12. Plaintiff, Class Members and Subclass Members worked for Defendant as non-exempt
6 employees in California.

7 13. Plaintiff, Class Members and Subclass Members worked as a non-exempt employee
8 for Defendant. During this employment a majority of Plaintiff's, Class Members and Subclass
9 Members work involved assisting and providing support to Defendant's customers.

10 **Defendants Failed to Compensate Plaintiff, Class Members and Subclass Members For**
11 **Off-the-Clock Work**

12 14. Plaintiff, Class Members and Subclass Members were subjected to off-the-clock work,
13 work during interrupted meal breaks, work time for on-call or on-premises meal breaks in which
14 is a violation of California Labor Code sections 210, 221, 510 and 1194 and the applicable
15 California Industrial Welfare Commission wage order(s). Defendant had a policy and practice of
16 requiring Plaintiff, Class Members and Subclass Members to sign a document at the beginning of
17 their shift in which their supervisor would maintain and underreport hours worked while
18 requiring job tasks to be performed off-the-clock. Moreover, Defendant had a policy and practice
19 of requiring Plaintiff, Class Members and Subclass Members to perform work during unpaid
20 meal breaks. Defendant failed to compensate Plaintiff, Class Members and Subclass Members
21 for the actual time worked and time spent engaging in compensable time entitling Plaintiff, Class
22 Members and Subclass Members to these wages. The unpaid working time during this off-the-
23 clock work should have been paid as either minimum wages or overtime wages depending on the
24 amount of hours worked by Plaintiff, Class Members and Subclass Members. These employees
25 were entitled to minimum wages and/or overtime wages for this time.

26 **Defendants Did Not Reimburse Plaintiff and Employees for Necessary Business Expenses**

1 15. Defendants pressured, encouraged and required Plaintiff, Class Members, Subclass
2 Members and similarly situated employees to purchase face masks for work purposes.
3 Defendants failed to reimburse for these necessary business expenses.

4 **Defendants Did Not Provide Meal and Rest Breaks to Plaintiff, Class Members and**
5 **Subclass Members**

6 16. Typically, Plaintiff, Class Members and Subclass Members were not provided with all
7 10 minute duty-free uninterrupted rest breaks during its working shifts that were at or above 7.5
8 hours as a result of encouragement and requirement to take short rest breaks because he was
9 interrupted during rest breaks, had to start rest breaks late and report back from rest breaks early,
10 required to stay on premises for rest breaks due to being required to undergo going through a
11 security fence that shortened rest breaks or required to miss entitled rest breaks. Moreover, at
12 times when Plaintiff, Class Members and Subclass Members were required to report back to
13 work for interrupted rest breaks were not paid premium wages for this interrupted rest breaks.
14 Moreover, Defendants required Plaintiff, Class Members and Subclass Members work on-call or
15 on-premises as they had to be available to perform job tasks and to return to work during rest
16 breaks. Finally, Defendants failed to permit and authorize Plaintiff, Class Members and Subclass
17 Members from taking rest breaks.

18 17. Furthermore, Plaintiff, Class Members and Subclass Members were not provided with
19 proper 30 minute duty-free uninterrupted meal periods each five hours of its working shifts that
20 he was entitled to when he worked over five and ten hour shifts and meal breaks were short, late,
21 interrupted or not taken at all as a result of being encouraged and required to take short meal
22 breaks because he was interrupted during meal breaks, had to start meal breaks late and report
23 back from meal breaks early or completely miss meal breaks due to workload and not paid
24 premium wages for these violations. Moreover, Defendants required Plaintiff, Class Members
25 and Subclass Members to work on-call or on-premises as they had to be available to perform job
26 tasks and to return to work during meal breaks each shift each day or be required to take a short
27 meal break due to being required to perform job tasks. Finally at times when Plaintiff, Class
28

1 Members and Subclass Members were required to report back to work for interrupted meal
2 breaks were not paid premium wages for this interrupted meal breaks.

3 **Defendant Failed to Provide Accurate Wage Statements to Plaintiff, Class Members and**
4 **Subclass Members**

5 18. Defendant had a policy and practice of requiring Plaintiff, Class Members, and Subclass
6 Members exclude compensable work from their pay records. Specifically for time the
7 employees spent working off-the-clock. As a result, Defendant knowingly and intentionally
8 provided Plaintiff, Class Members and Subclass Members with uniform incomplete and
9 inaccurate wage statements. Defendant had a policy and practice of not recording and informing
10 the employees of the total compensable hours worked by the employee as required by California
11 Labor section 226 (a).

12 **Defendant Failed to Pay All Wages Upon Termination to Plaintiff, Class Members and**
13 **Subclass Members**

14 19. Defendant willfully failed to pay Plaintiff all of his wages upon resignation or within
15 72 hours of leaving Defendant's employ.

16 20. Furthermore, during the Plaintiff, the Class Members and Subclass Members
17 employment with Defendant they were entitled to be paid the correct minimum wages, overtime
18 and double times hours upon termination or resignation. Defendant had a policy and/or practice
19 that failed to pay Plaintiff's, the Class Members and Subclass Members all of their wages owed
20 upon termination including minimum wages, overtime and double times hours wages that were
21 discounted or withheld by Defendant through the Plaintiff, the Class Members and Subclass
22 Members employment.

23 **CLASS ACTION ALLEGATIONS**

24 21. This action is maintainable as a representative action pursuant to California Code of
25 Civil Procedure section 382 as to violations of Wage Order 4-2001, Wage Order 7-2001, Wage
26 Order 9-2001, Labor Codes and UCL minimum wages, overtime and double time wages, and
27 attorneys' fees and costs. Plaintiff is a representative of other Class Members and Subclass
28 Members and is acting on behalf of their interests. The similarly situated employees are known

1 to Defendant and are readily identifiable and locatable through Defendant's own employment
2 records. The Class and Subclasses that Plaintiff seeks to represent is defined as follows:

3
4 The Class the Plaintiff seeks to represent is defined as follows:

5 All persons who were employed by Defendant as nonexempt employees, in
6 California at any time from four years prior to the date of filing of this action
through the date of trial (referred to herein as "Class Members").

7 The Subclass 1 the Plaintiff seeks to represent is defined as follows:

8 All persons who were employed by Defendant in California as nonexempt
9 employees at any time from four years year prior to the date of filing of this action
10 through the date of signed order certifying the class and subjected to policies.
11 procedures or practices of having to purchase face masks for work purposes
without reimbursement.

12 The Subclass 2 the Plaintiff seeks to represent is defined as follows:

13 All persons who were employed by Defendant in California as nonexempt
14 employees at any time from three years year prior to the date of filing of this
15 action through the date of signed order certifying the class and subjected to
16 policies. procedures or practices of having to purchase face masks for work
purposes without reimbursement.

17 The Subclass 3 the Plaintiff seeks to represent is defined as follows:

18 All persons who were employed by Defendant in California as nonexempt
19 employees at any time from four years prior to the date of filing of this action
20 through the date of signed order certifying the class and not paid for all hours
worked.

21 The Subclass 4 the Plaintiff seeks to represent is defined as follows:

22 All persons who were employed by Defendant in California as nonexempt
23 employees at any time from three years prior to the date of filing of this action
24 through the date of signed order certifying the class and not paid for all hours
worked.

25 The Subclass 5 that Plaintiff seek to represent is defined as follows:

26
27 All individuals in California whom worked as non-exempt employees for
28 Defendants as nonexempt employees whom were issued wage statements that
failed to comply with California Labor Code section 226(a) at any time from one

1 year of the date of the filing of this Complaint through the date of signed order
2 certifying the class.

3 The Subclass 6 that Plaintiff seek to represent is defined as follows:

4 All individuals in California whom worked as non-exempt employees for
5 Defendants at any time from four years of the date of the filing of this Complaint
6 through the date of signed order certifying the class that worked any shift more
7 than 5 hours but less than 6 hours and did not receive a legally compliant thirty-
8 minute uninterrupted first meal break and not paid a premium wage.

9 The Subclass 7 that Plaintiff seek to represent is defined as follows:

10 All individuals in California whom worked as non-exempt employees for
11 Defendants at any time from four years of the date of the filing of this Complaint
12 through the date of signed order certifying the class that worked any shift more
13 than 6 hours and did not receive a legally compliant thirty-minute uninterrupted
14 first meal break and not paid a premium wage.

15 The Subclass 8 that Plaintiff seek to represent is defined as follows:

16 All individuals in California whom worked as non-exempt employees for
17 Defendants at any time from four years of the date of the filing of this Complaint
18 through the date of signed order certifying the class that worked any shift more
19 than 10 hours and did not receive all legally compliant thirty-minute uninterrupted
20 second meal break and not paid a premium wage.

21 The Subclass 9 that Plaintiff seek to represent is defined as follows:

22 All individuals in California whom worked as non-exempt employees for
23 Defendants at any time from four years of the date of the filing of this Complaint
24 through the date of signed order certifying the class that worked any shift more
25 than 3 and a half hours and did not receive a legally compliant ten-minute
26 uninterrupted first rest break and not paid a premium wage.

27 The Subclass 10 that Plaintiff seek to represent is defined as follows:

28 All individuals in California whom worked as non-exempt employees for
Defendants at any time from four years of the date of the filing of this Complaint
through the date of signed order certifying the class that worked any shift more
than 6 hours and did not receive a legally compliant second ten-minute
uninterrupted second rest break and not paid a premium wage.

1 The Subclass 11 that Plaintiff seek to represent is defined as follows:

2 All individuals in California whom worked as non-exempt employees for
3 Defendants at any time from four years of the date of the filing of this Complaint
4 through the date of signed order certifying the class that worked any shift more
5 than 10 hours and did not receive a legally compliant third ten-minute
uninterrupted third rest break and not paid a premium wage.

6 22. Subclass Members 1 through Subclass Members 11, shall be collectively referred to
7 herein as (“Subclass Members”).

8 23. The individuals included within the alleged Class Members and Subclass Members are
9 over one hundred (100) and is so numerous that joinder of each of them would be impracticable,
10 and the disposition of their claims in a class action, rather than in numerous individual actions,
11 will benefits the parties, the Court, and the interests of justice.

12 24. Among the proposed Class Members and Subclass Members there are a well-defined
13 community of interest in the questions of law and/or fact involved, affecting the Class Members
14 and Subclass Members, these common questions include, but are not limited to:

- 15 a. Whether Defendant’s failure to provide Class Members and Subclass Members
16 with entitled correct overtime wages for all hours worked above 8 hours per day
17 or forty hours per week violates Labor Code sections 512, 1194, Wage Order 4-
18 2001, Wage Order 7-2001; Wage Order 9-2001;
 - 19 b. Whether Defendant’s various violations of the Labor Code serve as predicate
20 violations of the UCL.
 - 21 c. Whether Defendants’ failure to provide Class Members and Subclass Members
22 with entitled minimum wages for all hours worked violates Labor Code sections
23 1194, Wage Order 4-2001, Wage Order 7-2001; and Wage Order 9-2001;
 - 24 d. Whether Defendants’ failure to provide Class Members and Subclass Members
25 with all complaint meal periods violates Labor Code section 226.7 and 512;
 - 26 e. Whether Defendants’ failure to provide Class Members and Subclass Members
27 with all complaint meal periods violates Labor Code section 226.7;
- 28

- 1 f. Whether Defendants' failure to provide Class Members and Subclass Members
2 with accurate itemized wage statements violates Labor Code section 226(a);
3 g. Whether Defendants' failure to reimburse Class Members and Subclass Members
4 violates Labor Code section 2802.

5 25. Common questions of law and/or fact predominate over questions that affect only
6 individual Class Members and Subclass Members. Plaintiff's claims are typical of those
7 belonging to the members of the Class and Subclass they seek to represent, and Plaintiff can
8 adequately represent the Class and Subclass they seek to represent.

9 **FIRST CAUSE OF ACTION**

10 **(Claim For Failure to Pay Overtime Wage in Violation of Labor Code §§ 510, 1194, 1198**
11 **and IWC Wage Order 4, § 3, IWC Wage Order 7, § 3, IWC Wage Order 9, § 3, by**
12 **Plaintiff, Class Members and Subclass Members 1Against All Defendants and DOES 1-10)**

13 26. Plaintiff incorporates all of the allegations set forth in each of the paragraphs above
14 and below by reference as though set forth in full in this cause of action.

15 27. Plaintiff brings this claim on behalf of the Class Members and Subclass
16 Members.

17 28. Throughout Plaintiff, Class Members and Subclass Members employment, they
18 worked above 8 hour daily working shifts and 40 hours per week. Defendants did not
19 compensate Plaintiff, Class Members and Subclass Members for all entitled overtime and
20 double-time hours worked above 8 hours in a day and 40 hours per week with the correct amount
21 as it failed to pay Plaintiff, Class Members and Subclass Members for all hours worked including
22 all time worked.

23 29. Plaintiff, Class Members and Subclass Members are entitled to overtime and double
24 time compensation according to proof at the time of trial under Labor Code sections 510, 1194
25 subdivision (a), 1198 enforcing, Wage Order 4, Wage Order 7 and Wage Order 9. Defendant's
26 failure to pay Plaintiff, Class Members and Subclass Members as required by the applicable
27 wage order, violates the provision of Labor Code section 1194, subdivision (a) and is therefore
28 unlawful. Defendant also violated Labor Code section 510.

1 30. Plaintiff, Class Members and Subclass Members are entitled to earnings for all hours
2 worked, including overtime and double overtime. Plaintiff is also entitled to recover the
3 statutory civil fines pursuant to Labor Code section 1194, subdivision (a). The exact amount of
4 the applicable damages is an amount to be shown according to proof at trial and within the
5 jurisdictional limits of the Court.

6 **SECOND CAUSE OF ACTION**

7 **(Claim for Failure to Pay All Wages, Including All Minimum Wages, Cal. Lab. Code**
8 **sections 204, 510, 1194, 1194.2 and 1197 and IWC Wage Order 4, § 3, IWC Wage Order 7,**
9 **§ 3, IWC Wage Order 9, § 3 By Plaintiff, Class Members and Subclass Members Against**
10 **All Defendants and DOES 1-10)**

11 31. Plaintiff hereby incorporate all of the allegations set forth in each of the paragraphs above
12 and below by reference as though set forth in full in this cause of action.

13 32. Plaintiff bring this claim on behalf of themselves, the Class Members and Subclass
14 Members.

15 33. Defendants were required to compensate Plaintiff, Class Members and Subclass Members
16 for all hours worked pursuant to California Labor Code sections 510 and 1194 and Industrial
17 Welfare Commission Wage Order 4-2001 Section 3, Wage Order 7-2001 Section 3, Wage Order
18 9-2001 Section 3. Defendants failed to pay Plaintiff, Class Members and Subclass Members for
19 all hours worked including all time worked. Plaintiff, Class Members and Subclass Members are
20 entitled to minimum wages and civil penalties as a consequence of this failure.

21 34. Defendants were required to pay Plaintiff, Class Members and Subclass Members for all
22 of the minimum wages they are entitled to pursuant to California Labor Code sections 510 and
23 1194, Industrial Welfare Commission Wage Order 4-2001 Section 3, Industrial Welfare
24 Commission Wage Order 7-2001 Section 3. Industrial Welfare Commission Wage Order 9-2001
25 Section 3. Defendants failed to do so. Plaintiff, Class Members and Subclass Members are
26 entitled to civil penalties and owed wages as a consequence of this failure.

27 35. As a direct result of Defendants' violations alleged herein, Plaintiff, Class Members and
28 Subclass Members have suffered and continues to suffer substantial losses related to the use and
enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees
in seeking to compel Defendants to fully perform its obligation under state law, all to their

1 respective damage in amounts according to proof at trial and within the jurisdictional limitations
2 of this Court.

3 36.As a result of the violations alleged herein, Plaintiff, Class Members and Subclass
4 Members seeks all civil penalties and unpaid wages available pursuant to the Labor Code and
5 Wage Order 4-2001, Wage Order 7-2001, Wage Order 9-2001 including an award of interest on
6 the unpaid wages plus reasonable attorney's fees and costs and civil penalties. The exact amount
7 of the applicable penalties is an amount to be shown according to proof at trial.

8 **THIRD CAUSE OF ACTION**

9 **(Claim for Failure to Provide Meal Breaks – Lab. Code 226.7 and Wage Orders 4, 7 and 9,
10 Section 11 by Plaintiff, Class Members and Subclass Members Against All Defendants and
11 DOES 1-50)**

12 37. Plaintiff hereby incorporates all of the allegations set forth in each of the paragraphs
13 above and below by reference as though set forth in full in this cause of action.

14 38. Plaintiff bring this claim on behalf of himself and the Class Members and Subclass
15 Members.

16 39. Defendants were required to authorize and permit Plaintiff, Class Members and
17 Subclass Members to take uninterrupted meal breaks pursuant to Industrial Welfare Commission
18 Wage Orders 4, 7 and 9, section 11. Defendants failed to do so by not allowing such
19 uninterrupted meal breaks. Plaintiff, Class Members and Subclass Members are entitled to
20 premium wages and civil penalties as a consequence of this failure.

21 40. Defendants were required to pay the Plaintiff, Class Members and Subclass Members
22 employees one (1) hour of pay at their regular rate of compensation for each workday that the
23 legally compliant meal breaks are not provided, pursuant to applicable Industrial Welfare
24 Commission Wage Order. It failed to do so. Plaintiff, Class Members and Subclass Members are
25 entitled to civil penalties and owed wages as a consequence of this failure.

26 41. As a direct result of Defendants violations alleged herein, Plaintiff, Class Members and
27 Subclass Members have suffered and continues to suffer substantial losses related to the use and
28 enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees
in seeking to compel Defendants to fully perform its obligation under state law, all to their

1 respective damage in amounts according to proof at trial and within the jurisdictional limitations
2 of this Court.

3 42. As a result of the violations alleged herein, Plaintiff, Class Members and Subclass
4 Members seeks all civil penalties and wages available pursuant to the Labor Code and Wage
5 Order, and an award of reasonable attorney's fees and costs. The exact amount of the applicable
6 penalties is an amount to be shown according to proof at trial and within the jurisdictional limits
7 of the Court.

8 **FOURTH CAUSE OF ACTION**

9 **(Claim for Failure to Provide Rest Periods – Lab. Code 226.7 and Wage Orders 4, 7, 9
Section 12 to Plaintiff, Class Members and Subclass Members Against All Defendants and
DOES 1-50)**

10 43. Plaintiff hereby incorporates all of the allegations set forth in each of the paragraphs
11 above and below by reference as though set forth in full in this cause of action.

12 44. Plaintiff bring this claim on behalf of themselves and the Class Members and Subclass
13 Members.

14 45. Defendants were required to authorize and permit employees to take uninterrupted rest
15 periods pursuant to Industrial Welfare Commission Wage Orders 4, 7, 9, Section 12(A). It failed
16 to do so by not allowing such uninterrupted rest periods. Plaintiff, Class Members and Subclass
17 Members are entitled to owed wages and civil penalties as a consequence of this failure.

18 46. Defendants were required to pay the employees one (1) hour of pay at their regular rate
19 of compensation for each workday that the legally compliant rest period is not provided,
20 pursuant to Industrial Welfare Commission Wage Orders 4-2001, 7-2001, 9-2001, Section 12(B).
21 Defendants failed to do so by not allowing such interrupted rest periods. Plaintiff, Class
22 Members and Subclass Members are entitled to civil penalties as a consequence of this failure.

23 47. As a direct result of Defendants violations alleged herein, Plaintiff, Class Members and
24 Subclass Members have suffered and continues to suffer substantial losses related to the use and
25 enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees
26 in seeking to compel Defendants to fully perform its obligation under state law, all to their
27 respective damage in amounts according to proof at trial and within the jurisdictional limitations
28

1 of this Court. The exact amount of the applicable penalties is an amount to be shown according
2 to proof at trial and within the jurisdictional limits of the Court.

3 48.As a result of the violations alleged herein, Plaintiff, Class Members and Subclass
4 Members seek all civil penalties and owed wages available pursuant to the Labor Code and
5 Wage Orders 4, 7, 9, and an award of reasonable attorney's fees and costs.

6 **FIFTH CAUSE OF ACTION**
7 **(For Failure to Furnish Accurate Itemized Wage Statements in Violation of Lab. Code §**
8 **226 By Plaintiff, Class Members and Subclass Members Against All Defendants and DOES**
9 **1-10)**

10 49. Plaintiff, Class Members and Subclass Members hereby incorporates all of the allegations
11 set forth in each of the paragraphs above and below by reference as though set forth in full in this
12 cause of action.

13 50.Plaintiff brings this claim on behalf of themselves, Class Members and Subclass
14 Members.

15 51.Throughout the Class Period, Defendant failed to comply with Labor Code 226(a) by
16 failing to provide wage statements that included each employee's applicable total compensable
17 hours worked and the full name and address of the legal entity employer in violation of
18 California Labor Code Section 226(a), specifically item numbers 1, 2, 5, 8 and 9.

19 52. Defendant had a practice and procedure of requiring employees to sign documents at the
20 beginning of their shift leaving their superior to control the amount of work hours it records for
21 the Plaintiff, Class Members and Subclass Members in which Defendant underreports work
22 hours excluding compensable time. The employees could not determine from their paystub how
23 much wages were owed because the wage statements omitted the total of hours worked.

24 53.Defendants' intentionally excluded that time of compensable work from the wage
25 statement their wage statements. Defendants knew they were requiring their employees to spend
26 compensable time during unpaid meal breaks and off-the-clock work time, yet did not allow
27 employees to log that time so their wage statements could reflect those were indeed hours
28 worked, but were not compensated.

1 54. Defendants violated California Labor Code Section 226(a), specifically sections 1, 2, 5, 8
2 and 9 by not listing an accurate itemized statement of total hours worked by the employees. As a
3 direct result of Defendants' intentional violations alleged herein, Plaintiff, Class Members and
4 Subclass Members could not promptly and easily determine the total hours worked by the
5 employee by looking at the wage statement. Plaintiff, Class Members and Subclass Members
6 have suffered and continues to suffer substantial losses, they were being unable to know and
7 calculate the total wages they were entitled, in turn they were unable to object to the actual
8 wages not paid, causing the employee to lose interest on such monies and now have to incur
9 expenses and attorney's fees in seeking to compel Defendants to fully perform their obligation
10 under state law, all to their respective damage in amounts according to proof at trial and within
11 the jurisdictional limitations of this Court. The exact amount of the applicable civil penalties is
12 an amount to be shown according to proof at trial and an award of reasonable attorney's fees and
13 costs. This recovery are penalties separate and apart from the wages owed but not paid to the
14 employees for the compensable time needed to go through the security measures when entering
15 and exiting the work premises.

16 **SIXTH CAUSE OF ACTION**

17 **(Claim For Failure to Reimburse Plaintiff for All Necessary Expenses Per Lab. Code §§ 18 2802, 2804 Plaintiff, Class and Subclass Against All)**

19 55. Plaintiff hereby incorporates all of the allegations set for in each of the paragraphs above
20 and below by reference as though set forth in full in this cause of action.

21 56. Plaintiff brings this claim on behalf of itself, the Class Members and Subclass Members.

22 57. Plaintiff, Class Members and Subclass Members were non-exempt employees of
23 Defendant. In the course of their employment, Plaintiff, Class Members and Subclass Members
24 were not reimbursed for expenses arising in the course and scope of their services. These
25 expenses included, but not limited to, purchase of face masks.

26 58. Plaintiff, Class Members and Subclass Members were not exempt employees and entitled
27 to the protections of IWC Order 4-2001, IWC Order 7-2011, IWC Order 9-2011 (Title 8 of the
28 California Code of Regulations § 11090), and California Labor Code § 200, 500, 1194, 1197,
and 1198).

1 59. At all times herein mentioned Plaintiff, Class and Subclass were subject to Labor Code §
2 2802, which states that “an employer shall indemnify his or her employees for all necessary
3 expenditures or losses incurred by the employee indirect consequence of the discharge of his
4 duties, or of his obedience to the directions of the employer.”

5 60. At all times herein mentioned Plaintiff, Class and Subclass were subject to Labor Code §
6 2804 which states that “any contract or agreement, express or implied, made by any employee to
7 waive the benefits of this article or any part thereof, is null and void, and this article shall not
8 deprive any employee or his personal representative of any right or remedy to which he is
9 entitled under the laws of this State.”

10 61. As a proximate result of Defendant’s policies in violation of Labor Code §§ 2802 and
11 2804, Plaintiff, Class Members and Subclass Members suffered damages in sums, which will be
12 shown according to proof to be in excess of the jurisdictional minimum of this Court.

13 62. Plaintiff is entitled to expenses, attorney’s fees. Interest, and costs of suit pursuant to
14 Labor Code § 2802(c) for bringing this action.

15 63. Pursuant to Labor Code § 2802(b), in any action brought for the reimbursement of
16 necessary expenditures under this section shall carry interest at the same rate as judgment in civil
17 actions. Interest shall accrue from the date on which the employee incurred the necessary
18 expenditure. Plaintiff, Class Members and Subclass Members are entitled to said interest.

19 64. Plaintiff, Class Members and Subclass Members are entitled to reimbursement for
20 expenses including, but not limited to, reimbursement for expenses in connection to being
21 required to purchase face masks, attorney’s fees, interest, and costs of suit pursuant to Labor
22 code § 2802 for bringing this action.

23 **SEVENTH CAUSE OF ACTION**

24 **(Claim For Failure to Pay Wages Upon Termination in Violation of Labor Code § 203 by
25 Plaintiff, Class Members and Subclass Members Against All Defendants and DOES 1-50)**

26 65. Plaintiff hereby incorporates all of the allegations set forth in each of the paragraphs
27 above and below by reference as though set forth in full in this cause of action.

28 66. Pursuant to Labor Code section 203, an employer may not willfully fail to pay any
wages owed to an employee who is either discharged or quits.

67. Plaintiff brings this claim on behalf of the Class Members and Subclass Members.

68. Defendant failed to pay Plaintiff, Class Members and Subclass Members who are no longer employed by Defendant's compensation due upon termination as required by California Labor Code section 201 and 202 as a result of failing to pay Plaintiff, Class Members and Subclass Members the correct amount as it failed to as it unlawfully failed to pay for all hours worked. As a result, Defendant is liable to Plaintiff, former employee Class Members and Subclass Members waiting time penalties provided under California Labor Code section 203, plus reasonable attorney's fees and costs of suit. At the time of Plaintiff's termination and former Class Members and Subclass Members, Plaintiff, Class Members and Subclass Members were owed wages for Defendant's failure to compensate them for overtime and double time including, but not limited to their correct overtime and double times rates for all overtime and double-time hours worked in violation of Labor Code section 203.

69. Plaintiff, on behalf of itself, Class Members and Subclass Members, also request relief as described below.

70. The exact amount of the applicable damages is an amount to be shown according to proof at trial and within the jurisdictional limits of the Court.

EIGHTH CAUSE OF ACTION

(For Unlawful Business Practices-Bus. & Prof. Code § 17200 et seq.)

By Plaintiff, Class Members and Subclass Members Against All Defendants and DOES 1-10)

71. Plaintiff hereby incorporate all of the allegations set forth in each of the paragraphs above and below by reference as though set forth in full in this cause of action.

72. Plaintiff brings this claim on behalf of himself and the Class Members and Subclass Members.

73. Business & Professions Code section 17200 states “As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1

(commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.”

74. Through Defendant’s conduct during the applicable statutory period including, but not limited to, the conduct alleged herein, including that alleged on information and belief, the Defendant has engaged in business practices in California by practicing, employing, and utilizing, the employment practices outlined in the preceding paragraphs all in violation of California law and the applicable Industrial Welfare Commission Wage Order. Defendant’s use of such practices constitutes an unfair business practice, unfair competition, and provides as unfair advantage over Defendant’s competitors doing business in the State of California that comply with their obligations to properly provide employment conditions in compliance with the law and pay employees for all earned wages and compensation as required by law.

75. Defendant’s violations of the California Civil Code, Labor Code and the applicable Wage Order and their scheme to lower payroll costs as alleged herein constitute unlawful business practices because these actions were done in a systematic manner over a period of time to the detriment of Plaintiff, Class Members and Subclass Members. The acts complained of herein occurred within the last four (4) years preceding the filing of this complaint and include, but are not limited to, failure to (i) failure to pay California employees at the proper overtime wages and minimum wages; (ii) failed to pay wages upon termination as a result of failing to pay California employees at the proper overtime wages; (iii) failing to compensate Class Members and Subclass Members with minimum wages; (iv) unlawfully deducting and discounting wages from Class Members and Subclass Members; (v) failing to issue accurate itemized wage statements; (vi) failing to pay all wages timely upon termination, resignation or end of employment.. Plaintiff is informed and believes and on that basis alleges that, at all times herein mentioned, Defendant engaged in the above-mentioned acts of unlawful, deceptive, and unfair business practices prohibited by California Business and Professions Code sections 17200 et seq., including those set forth in the preceding paragraph, thereby depriving Plaintiff of the minimum working condition standards and conditions due, including those under Labor Code and Wage Order.

76. As a result of Defendant's unfair competition as alleged herein, Plaintiff, Class Members and Subclass Members have suffered injury in fact and lost money or property. Plaintiff, Class Members and Subclass Members have been deprived of the rights to accurate and itemized wage statements, wages and benefits due including those as alleged herein.

77. Pursuant to California Business & Professions Code section 17203, Plaintiff is entitled to seek restitution of all wages and other monies owed on behalf of themselves and Class members and Subclass members belonging to them, including interest thereon, which Defendant's wrongfully withheld from them and retained for itself by means of its unlawful and unfair business practices.

78. Plaintiff is informed and believes, and on that basis alleges, that the illegal conduct alleged herein is continuing and there is no indication that Defendant's will not continue such activity into the future. Plaintiff alleges that if Defendant's are not enjoined from the conduct set forth in this Complaint, they will continue to fail to pay the wage and compensation required to be paid and will fail to comply with other requirements of the Labor Code and Wage Order.

79. As a direct and proximate result of Defendant's conduct, Defendants have received and will continue to receive monies that rightfully belong to members of the general public who have been adversely affected by Defendant's conduct, as well as to Plaintiff by virtue of any unpaid wages and other monies or penalties associated therewith.

80. Plaintiff, Class Members and Subclass Members are entitled and seeks any and all available remedies including but not limited to restitution and recovery of reasonable attorney's fees and costs pursuant to California Code of Civil Procedure section 1021.5, Business and Professions Code section 17200 et seq., the substantial benefit doctrine, and/or the common fund doctrine.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays individually and on behalf of the proposed Class and Subclass Members, prays for judgment against Defendant as follows:

A. Certification of Plaintiff's claims as a class action pursuant to Cal. Code of Civ. Pro. Section 382, on behalf of the proposed class;

- 1 B. Class notice to all Class Members and Subclass Members who worked for Defendant
2 from four years prior to the filing of the original Complaint through the trial of this
3 action;
- 4 C. Plaintiff be appointed as the representative of the Class;
- 5 D. Plaintiff be appointed as the representative of Subclass Members;
- 6 E. Counsel for Plaintiff be appointed as counsel for the Class and Subclass Members;
- 7 F. The Court declare that, as to former employee Class Members and Subclass
8 Members, Defendant have violated California Labor Code sections 510, 1194, Wage
9 Order 4-2001 and Wage Order 7-2001 by failing to compensate the Class Members
10 and Subclass Members their proper overtime rates;
- 11 G. The Court declare that, as to former employee Class Members and Subclass
12 Members, Defendant have violated California Labor Code sections 1194 and Wage
13 Order 4-2001 and Wage Order 7-2001 by failing to compensate the Class Members
14 and Subclass Members their proper minimum wage rates;
- 15 H. The Court declare Defendants' policies and/or practices of failing to provide meal
16 periods violates California Labor Code section 226.7, and 512, Wage Orders 4-2001
17 Section 11(A), Wage Orders 7-2001 Section 11(A) by failing to provide the plaintiff,
18 Class Members, Subclass Members and with meal periods of at least one half hour in
19 which they were relieved of all duties for every five hours of work;
- 20 I. The Court declare Defendants' policies and/or practices of failing to provide rest
21 periods violates California Labor Code section 226.7, Wage Order 4-2001 and Wage
22 Order 7-2001 by failing to provide the plaintiff Class Members, Subclass Members
23 and with rest periods of at least ten minutes in which they were relieved of all duties
24 for every four hours of work or major fraction thereof;
- 25 J. The Court declare that, as to former employee Class Members and Subclass
26 Members, Defendant have violated California Labor Code sections 226(a) by failing
27 to issue accurate itemized wage statements;
- 28

1 K. The Court declare that, as to former employee Class Members and Subclass
2 Members, Defendant have violated California Labor Code sections 2802 by failing to
3 reimburse Plaintiff, Class Members and Subclass Members for using their personal
4 cell phone for work purposes.

5 L. The Court declare that, as to former employee Class Members and Subclass
6 Members, Defendants have violated California Labor Code section 201-203 for
7 willful failure to pay compensation at the time of termination of employment,
8 resulting in unpaid waiting time penalties;

9 **First Cause of Action:**

- 10 1. For an award of damages to Class Members and Subclass Members pursuant to
11 Labor Code sections 510 and 1194.
- 12 2. The exact amount of the applicable damages is an amount to be shown
13 according to proof at trial and within the jurisdictional limits of the Court.
- 14 3. An award to Class Representative Plaintiff Class Members and Subclass
15 Members of reasonable attorneys' fees and costs, pursuant to California Civil Procedure Code
16 section 1021.5, California Labor Code section 218.5, 1194, 510 and/or other applicable law.

17
18 **Second Cause of Action:**

- 19 4. For an award for the Class Members and Subclass Members for owed wages
20 and penalties, plus interest pursuant to Labor Code section 1194.
- 21 5. The exact amount of the applicable damages is an amount to be shown
22 according to proof at trial and within the jurisdictional limits of the Court.
- 23 6. An award to Class Representative Plaintiff, the Class Members and Subclass
24 Members of reasonable attorneys' fees and costs, pursuant to California Civil Procedure Code
25 sections 1021.5 and California Labor Code sections 203, 218.5, 226, 226.7 and/or other
26 applicable law.

1 **Third Cause of Action**

2 7. For an award of damages to Plaintiff, Class Members and Subclass Members pursuant to
3 Labor Code section 226.7 (c).

4 8. The exact amount of the applicable damages is an amount to be shown according to proof
5 at trial and within the jurisdictional limits of the Court.

6 9. An award to Class Representative Plaintiff, Class Members and Subclass Members of
7 reasonable attorneys' fees and costs, pursuant to California Civil Procedure Code section 1021.5,
8 California 226, 226.7 and/or other applicable law.

9
10 **Fourth Cause of Action:**

11 10. For an award of damages to Plaintiff and the Class Members and Subclass 1 and Subclass 2
12 Members pursuant to Labor Code section 226.7 (c).

13 11. The exact amount of the applicable damages is an amount to be shown according to proof at
14 trial and within the jurisdictional limits of the Court.

15 12. An award to Class Representative Plaintiff, the Class Members and Subclass Members of
16 reasonable attorneys' fees and costs, pursuant to California Civil Procedure Code section 1021.5,
17 California Labor Code sections 226, 226.7 and/or other applicable law.

18
19 **Fifth Cause of Action:**

20 13. For an award for the Class Members and Subclass Members for owed wages
21 and penalties, plus interest pursuant to Labor Code section 226(a).

22 14. The exact amount of the applicable damages is an amount to be shown
23 according to proof at trial and within the jurisdictional limits of the Court.

24 15. An award to Class Representative Plaintiff, the Class Members and Subclass
25 Members of reasonable attorneys' fees and costs, pursuant to California Civil Procedure Code
26 sections 1021.5 and California Labor Code sections 203, 218.5, 226, 226.7 and/or other
27 applicable law.

1 **Sixth Causes of Action:**

2 16. For an award of damages to Plaintiff and the Class Members and Subclass
3 Members pursuant to Labor Code section 2802 et seq.

4 17. The exact amount of the applicable damages is an amount to be shown
5 according to proof at trial and within the jurisdictional limits of the Court.

6 18. An award to Class and Subclass Representative Plaintiff, and the Class
7 Members and Subclass Members of reasonable attorneys' fees and costs, pursuant to California
8 Civil Procedure Code section 1021.5, California 2802 et seq., and/or other applicable law.

9
10 **Seventh Cause of Action:**

11 19. For an award for the Class Members and Subclass Members for owed wages
12 and penalties, plus, interest pursuant to Labor Code section 203.

13 20. The exact amount of the applicable damages is an amount to be shown
14 according to proof at trial and within the jurisdictional limits of the Court.

15 21. An award to Class Representative Plaintiff, the Class Members and Subclass
16 Members of reasonable attorneys' fees and costs, pursuant to California Civil Procedure Code
17 sections 1021.5 and California Labor Code sections 203, 218.5, 226, 226.7 and/or other
18 applicable law.

19
20 **Eighth Cause of Action:**

21 22. For restitution, lost wages and penalties therewith;

22 23. For pre-judgment and post-judgment interest to the extent permitted by law;

23 24. For an award of attorneys' fees and costs incurred in the investigation, filing
24 and prosecution of this action pursuant to Code of Civil Procedure section 1021.5, Business and
25 Professions Code sections 17200, et seq., Labor Code section 1194 and any other applicable
26 provision of law; and

27 25. For such other relief as the Court deems just and proper.
28

1 **As to All Causes of Action:**

2 26. For reasonable attorneys' fees and costs incurred;

3 27. Interest accrued to date under the California Labor Code, including under
4 Sections 226.7; and

5 28. For such other and further relief as this Court may deem just and proper.
6

7 Dated: June 22, 2021

Jackson APC

By:/s/ Armond M. Jackson

Armond M. Jackson

Attorneys for Plaintiff Filiberto Ruiz
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9

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff Filiberto Ruiz demands a jury trial in the above captioned matter.
12

13 Dated: June 22, 2021

Jackson APC

By:/s/ Armond M. Jackson

Armond M. Jackson

Attorneys for Plaintiff Filiberto Ruiz
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