

FILED
Superior Court Of California,
Sacramento
01/05/2022
reanmiguel
By _____, Deputy
Case Number:
34-2021-00305938

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

SILVIANO VASQUEZ, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

CHRISWELL HOME IMPROVEMENTS,
INC., a California Corporation; and DOES 1 to
100, inclusive,

Defendants.

Case No.: 34-2021-00305938

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Failure to Reimburse Expenses
8. Unfair Competition
9. Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 Plaintiff SILVIANO VASQUEZ ("Plaintiff"), on behalf of himself and all other similarly
2 situated employees, hereby files this Complaint against Defendants CHRISWELL HOME
3 IMPROVEMENTS, INC., a California Corporation; and DOES 1 to 100, inclusive (hereinafter all
4 collectively referred to as "Defendants"). On information and belief, Plaintiff alleges the following:

5 INTRODUCTION

6 1. This is a class action lawsuit brought by Plaintiff for failure to pay minimum wages,
7 failure to pay overtime wages, failure to provide meal periods or pay premiums in lieu thereof, failure to
8 provide rest periods or pay premiums in lieu thereof, failure to provide accurate wage statements, failure
9 to pay final wages, failure to reimburse for expenses, failure to maintain accurate records, and unfair
10 competition. Plaintiff has also alleged a representative claim for civil penalties under the Private
11 Attorneys General Act.

12 JURISDICTION AND VENUE

13 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
14 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
15 Labor Code, California Business and Professions Code, and Wage Order No. 16.

16 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that
17 Defendants reside in Sacramento County and/or are foreign entities and have not designated any county
18 in California as being where they maintain their principal offices. In addition, some of the wrongful acts
19 and violations of law asserted herein occurred within Sacramento County, and Defendants' obligation to
20 pay wages arose in Sacramento County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36
21 Cal.3d 403, 414 (1984).

22 4. Plaintiff sought permission pursuant to Labor Code section 2699 *et seq.* to pursue the
23 claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of himself
24 and other similarly situated employees. Pursuant to Labor Code section 2699.3, Plaintiff gave written
25 notice via online submission to the Labor and Workforce Development Agency ("LWDA") on
26 approximately August 10, 2021. Plaintiff provided facts and legal bases for his claims within the notice
27 to the LWDA on all violations asserted under the Private Attorneys General Act cause of action.
28 Plaintiff submitted the \$75.00 filing fee. The August 10, 2021 notice was also sent via certified mail to

1 Defendants on the same day. Plaintiff is informed and believes, that to date, the LWDA has not
2 provided any response to Plaintiff's notice correspondence. Accordingly, Plaintiff is informed and
3 believes that he has exhausted all administrative remedies pursuant to the Private Attorneys General Act
4 and may bring this action on behalf of himself and all Aggrieved Employees. See Cal. Labor Code §
5 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc. v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19
6 (2005). Aggrieved Employees includes all individuals who have, or continue to, perform work for
7 Defendants in California as non-exempt employees from August 10, 2020 to the present.

8 PARTIES

9 5. SILVIANO VASQUEZ is an individual over the age of eighteen (18) and is a resident
10 of the State of California.

11 6. On information and belief, Plaintiff alleges, CHRISWELL HOME
12 IMPROVEMENTS, INC., is now and/or at all times mentioned in this Complaint was a California
13 Corporation and the owner and operator of an industry, business and/or facility doing business in the
14 State of California.

15 7. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and
16 the alter egos of each of the other Defendants named herein, corporate or otherwise, who participated
17 in and are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege
18 the true names and capacities of these DOE Defendants when they are ascertained. At all times
19 mentioned herein, each Defendant was the agent or employee of each of the other Defendants and
20 was acting within the course and scope of such agency or employment. The Defendants are jointly
21 and severally liable to Plaintiff.

22 8. At all times mentioned herein, each Defendant was the agent or employee of each of the
23 other Defendants and was acting within the course and scope of such agency or employment. The
24 Defendants are jointly and severally liable to Plaintiff.

25 9. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
26 were members of and/or engaged in a joint employment, joint venture, partnership and common
27 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
28 joint venture, partnership and common enterprise.

10. Defendants, and each of them, now and/or at all times mentioned in this Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

11. Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

CLASS ALLEGATIONS

12. Plaintiff brings the First through Eighth Causes of Action on behalf of himself and all others similarly situated as a class action pursuant to California Code of Civil Procedure section 382. The class which Plaintiff seeks to represent is composed of, and defined, as follows:

all individuals who have, or continue to, perform work for Defendants in California as non-exempt employees from August 10, 2017 the present.

13. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

(a) **Numerosity**: The putative class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff at this time, Plaintiff is informed and believes that Defendants have employed as many as fifty (50) individuals falling within the above stated class definition throughout the State of California during the applicable statute of limitations, who were subjected to the policies and practices outlined in this Complaint. As such, joinder of all members of the putative class is not practicable.

(b) **Common Questions Predominate**: Common questions of law and fact exist as to all members of the putative class and predominate over questions that affect only individual members of the class. These common questions of law and fact include, without limitation, the following:

- (1) Whether as a result of Defendants' policies and practices Plaintiff and putative class members were deprived of meal periods or premiums;
- (2) Whether as a result of Defendants' policies and practices Plaintiff and putative class members were deprived of rest periods or premiums;

- 1 (3) Whether Defendants failed to pay Plaintiff and putative class members for all
2 hours worked;
- 3 (4) Whether Defendants included all non-discretionary remuneration paid to
4 employees when calculating their regular rate of pay for overtime and sick leave
5 purposes;
- 6 (5) Whether as a result of Defendants' policies and practices Plaintiff's and putative
7 class members received all wages, due and owing, at the time of their termination
8 or separation; and
- 9 (6) Whether Defendants provided Plaintiff's and putative class members with wage
10 statements that complied with Labor Code section 226.
- 11 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
12 class. The putative class also sustained damages arising out of Defendants' common
13 course of conduct in violation of the law as complained of herein. Plaintiff and all
14 members of the putative class were non-exempt employees who were not paid for all
15 work performed, not paid overtime owed, not provided with meal and rest periods or
16 premiums in lieu thereof, and not paid all sick leave wages owed resulting in unpaid
17 wages at their separation. Additionally, Defendants issued Plaintiff and all members of
18 the putative class wage statements that did not comply with Labor Code section 226. As
19 a result, Plaintiff and each member of the putative class will have suffered the same type
20 of harm and seek the same type of recovery based on the same legal theories.
- 21 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
22 putative class. For all relevant times, Plaintiff resided in California and worked for
23 Defendants in California. Moreover, Plaintiff is an adequate representative of the
24 putative class as Plaintiff has no interests that are adverse to those of putative class
25 members. Additionally, Plaintiff has retained counsel who has substantial experience in
26 complex civil litigation and wage and hour matters.
- 27 (e) Superiority: A class action is superior to other available means for the fair and efficient
28 adjudication of the controversy since individual joinder of all members of the putative

1 class is impracticable. Class action treatment will permit a larger number of similarly
2 situated persons to prosecute their common claims in a single forum simultaneously,
3 efficiently, and without the unnecessary duplication of effort and expense that numerous
4 individual actions would engender. Further, as damages suffered by each individual
5 member of the class may be relatively small, the expenses and burden of the individual
6 litigation would make it difficult or impossible for individual members of the class to
7 redress the wrongs done to them, and an important public interest will be served by
8 addressing the matter as a class action. The cost to the court system of adjudication of
9 such individualized litigation would be substantial. Individualized litigation would also
10 present the potential for inconsistent or contradictory judgments.

11 14. Plaintiff is unaware of any difficulties that are likely to be encountered in the
12 management of this action that would preclude its maintenance as a class action.

13 **GENERAL ALLEGATIONS**

14 15. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 14 as though fully
15 set forth herein.

16 16. Plaintiff worked for Defendants from approximately March 15, 2021 to June 1, 2021 as
17 an hourly, non-exempt employee. Plaintiff and similarly situated employees were not fully compensated
18 due to Defendants' multiple Labor Code violations.

19 17. Defendants failed to pay Plaintiff and similarly situated employees for all hours spent
20 working. Defendants used phone applications to coordinate employees' schedules and for timekeeping.
21 Plaintiff and similarly situated employees received nightly texts they were required to review and
22 respond to regarding shift scheduling during hours that they were not clocked in.

23 18. Plaintiff and similarly situated employees were also required to clock in and out using a
24 phone app. After Plaintiff and similarly situated employees were done working for the day, they would
25 submit their time entries through the app. Plaintiff and similarly situated employees routinely found that
26 their submitted times were rounded in a way that reduced working hours prior to the entries being
27 approved by management. Defendants used this rounding policy to reduce labor costs and avoid
28

1 compensating employees for all time worked. Plaintiff and similarly situated employees are owed
2 unpaid minimum and overtime wages due to Defendants rounding policy.

3 19. Defendants did not consistently provide Plaintiff and similarly situated employees with
4 the required thirty (30) minute lunch break every five hours of work or ten (10) minute rest breaks every
5 four hours. To reduce labor costs and increase profits, Defendants mandated that construction projects
6 were completed as fast as possible, even if that meant foregoing meal and rest breaks. Defendants often
7 instructed Plaintiff and similarly situated employees to continue working through meal and rest breaks to
8 complete construction jobs as quickly as possible. Despite Plaintiff and similarly situated employees not
9 entering meal breaks through the timekeeping app, Defendants would change employee submissions to
10 reflect that a meal break had occurred before approving the entries. Plaintiff and similarly situated
11 employees are owed unpaid meal and rest period premiums, as well as unpaid minimum wages and
12 overtime that would have resulted had there been no unlawful deduction of thirty (30) minutes from
13 Plaintiff's and similarly situated employees' hours worked.

14 20. Defendants failed to reimburse Plaintiff and similarly situated employees for work-
15 related uses of personal items. Defendants required that employees have their own cell phones, personal
16 vehicles, and personal tools for work purposes. Plaintiff and similarly situated employees used their
17 personal cell phones while working to enter their hours, update management on project progress and
18 completion, coordinate worksite duties, and coordinate work schedules.

19 21. Plaintiff and similarly situated employees used their personal vehicles to transport
20 materials and travel to and in between jobsites. Employees were forced to spend their own money on
21 gas and maintenance costs related to work-related use of their personal vehicles. Plaintiff and similarly
22 situated employees we also required to purchase and use tools needed to complete construction projects
23 without being reimbursed or being paid two times the minimum wage. Plaintiff and similarly situated
24 employees are owed reimbursement for personal expenditures and work-related usage of personal items
25 required by Defendants.

26 22. Defendants failed to properly calculate overtime and paid sick time wages at Plaintiff's
27 and similarly situated employees' regular rate of pay. Plaintiff and similarly situated employees
28 received non-discretionary remuneration in addition to basic rate of pay that was not included in

1 calculating regular rate of pay for overtime and paid sick leave purposes. This included, but was not
2 limited to, bonuses and commissions. Due to Defendants' failure to include the additional renumeration
3 in the overtime and paid sick leave regular rate of pay calculations, Plaintiff and similarly situated
4 employees are owed unpaid wages.

5 23. Defendants failed to provide Plaintiff and similarly situated employees with accurate
6 wage statements. Defendants improperly excluded missed or delayed meal and rest period premiums
7 owed to Plaintiff and similarly situated employees. Defendants also failed to properly account for
8 unpaid minimum, overtime, and paid sick leave wages as a result of their time rounding policy and
9 improper regular rate of pay calculations. Defendants distributed wage statements with inaccurate gross
10 wages earned, total hours worked, net wages earned, and applicable hourly rates in effect. Due to
11 Defendants failure to accurately account for all wages owed to Plaintiff and similarly situated
12 employees, Defendants owe penalties for distributing inaccurate wage statements.

13 24. At the time of Plaintiff's and similarly situated employees' termination and/or separation,
14 Plaintiff and similarly situated employees were owed minimum wages, regular wages, paid sick leave
15 wages, overtime wages, and meal and rest period premiums. To date, Defendants have not paid Plaintiff
16 and similarly situated employees these unpaid wages.

17 **CAUSES OF ACTION**

18 **FIRST CAUSE OF ACTION** 19 **FAILURE TO PAY OVERTIME WAGES** 20 **(As to all Defendants)**

21 25. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 24 as though fully
22 set forth herein.

23 26. During the period Plaintiff was employed by Defendants, Defendants were required to
24 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
25 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
26 hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 16, section*
(3)(A); Cal. Lab. Code §§ 510, 1194.

27 27. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
28 and/or forty (40) hours per week on several occasions while employed by Defendants. However,

Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours worked at their regular rate of pay.

28. Plaintiff and similarly situated employees were not exempt from overtime protections employees under the California Wage Orders and Labor Code.

29. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(As to all Defendants)

30. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 29 as though fully set forth herein.

31. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff and similarly situated employees with at least California's applicable minimum for every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 16, section 4(A); Cal. Lab. Code § 1194.

32. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants were aware of their obligation to pay the minimum wage for each hour worked but failed to do so.

33. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

34. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 33 as though fully set forth herein.

35. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

36. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 16, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

37. California Labor Code section 512 and Wage Order No. 16 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

38. Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated employees to take their first meal period before the completion of their fifth hour of work and failed to allow Plaintiff and similarly situated employees to take their second meal period before the completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

39. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

40. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

41. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 40 as though fully set forth herein.

42. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

1 43. California Labor Code section 226.7 and Wage Order No. 16, section 12(A) require
2 an employer to provide a rest period of not less than ten (10) minutes for each work period of more
3 than four (4) hours or a major fraction thereof.

4 44. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
5 situated employees to take paid rest periods of at least ten (10) minutes for each work period that
6 they worked more than four (4) hours or a major fraction thereof.

7 45. Defendants further failed to pay Plaintiff and similarly situated employees the
8 applicable rest period premiums for any such missed rest periods.

9 46. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
10 employees have been damaged as stated in the section below entitled "DAMAGES," which is
11 incorporated here to the extent pertinent as if set forth here in full.

12 **FIFTH CAUSE OF ACTION**
13 **WAGE STATEMENT VIOLATIONS**
14 **(As to all Defendants)**

15 47. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 46 as though fully
16 set forth herein.

17 48. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
18 statement to an employee, semimonthly or at the time of each payment of wages, showing:

19 *(1) gross wages earned, (2) total hours worked by the employee, except for*
20 *any employee whose compensation is solely based on a salary and who is*
21 *exempt from payment of overtime under subdivision (a) of Section 515 or*
22 *any applicable order of the Industrial Welfare Commission, (3) the*
23 *number of piece-rate units earned and any applicable piece rate if the*
24 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
25 *all deductions made on written orders of the employee may be aggregated*
26 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
27 *period for which the employee is paid, (7) the name of the employee and*
28 *the last four digits of his or her social security number or an employee*
identification number other than a social security number, (8) the name
and address of the legal entity that is the employer and, if the employer is
a farm labor contractor, as defined in subdivision (b) of Section 1682, the
name and address of the legal entity that secured the services of the
employer, and (9) all applicable hourly rates in effect during the pay
period and the corresponding number of hours worked at each hourly rate
by the employee. The deductions made from payment of wages shall be
recorded in ink or other indelible form, properly dated, showing the
month, day, and year, and a copy of the statement and the record of the
deductions shall be kept on file by the employer for at least three years at

1 *the place of employment or at a central location within the State of*
2 *California.*

3 49. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
4 itemized statement or failed to provide an accurate and complete itemized statement showing the
5 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
6 accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime
7 and double time hours worked and corresponding rates of pay, and gross and net wages earned. The
8 paystubs also did not accurately itemize Plaintiff's and similarly situated employees' total hours
9 worked due to Defendants' rounding policy and changing of timesheets that resulted in off-the-clock
10 work. Plaintiff and similarly situated employees were not able to promptly and easily determine
11 their total hours worked from their paystubs alone. Additionally, Plaintiff and similarly situated
12 employees suffered confusion over whether they received all wages owed and were prevented from
13 effectively challenging information on their wage statements.

14 50. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
15 employees have been damaged as stated in the section below entitled "DAMAGES," which is
16 incorporated here to the extent pertinent as if set forth here in full.

17 **SIXTH CAUSE OF ACTION**
18 **WAITING TIME PENALTIES**
19 **(As to all Defendants)**

20 51. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 50 as though fully
21 set forth herein.

22 52. An employer must pay an employee who is terminated all unpaid wages immediately
23 upon termination. *See Cal. Lab. Code § 201.*

24 53. An employer must pay an employee who resigns all unpaid wages within seventy-two
25 (72) hours of their resignation. *See Cal. Lab. Code § 202.*

26 54. Plaintiff and similarly situated employees did not receive all wages, including minimum
27 and overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or
28 within the required time after their separation from employment.

1 55. An employer who willfully fails to pay an employee wages in accordance with California
2 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
3 days. *See* Cal. Lab. Code § 203.

4 56. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
5 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
6 and similarly situated employees were not being paid accurately due to their rounding policy and
7 practice of adding meal breaks to timesheets that had not occurred. Such conduct shows Defendants had
8 knowledge of earned, but unpaid wages at the time of separation, yet Defendants still refused to pay the
9 remaining wages owed.

10 57. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
11 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
12 thirty (30) days for Defendants' failure to pay all wages due.

13 **SEVENTH CAUSE OF ACTION**
14 **FAILURE TO REIMBURSE EXPENSES**
 (As to all Defendants)

15 58. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 57 as though fully
16 set forth herein.

17 59. California Labor Code section 2802(a) states that "An employer shall indemnify his or
18 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
19 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
20 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
21 unlawful."

22 60. Defendants required Plaintiff and similarly situated employees to use their personal cell
23 phones, personal vehicles, and personal tools but failed to reimburse them for such use. Defendant
24 required Plaintiff and similarly situated employees to use their personal items for work-related activities.

25 61. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
26 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
27 the extent pertinent as if set forth here in full.

EIGHTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to all Defendants)

62. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 61 as though fully set forth herein.

63. 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. *See* California Business and Professions ("B&P") Code § 17200.

64. Plaintiff and similarly situated employees were not paid all wages owed, including minimum and overtime wages, and meal and rest period premiums, paid sick leave, or reimbursed for business expenses, during their employment or any time thereafter.

65. Plaintiff further alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

66. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code sections 17203, 17208, violations of California Labor Code sections 226.7, 510, 512, and 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

NINTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

67. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 66 as though fully set forth herein.

68. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with him and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194; IWC Wage Order 16, § 3 (Failure to Pay Overtime Wages)

- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.7, 512; IWC Wage Order 16, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 226.7; IWC Wage Order 16, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- Violation of Labor Code § 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code § 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

69. Plaintiff seeks civil penalties against Defendants as provided in the Labor Code, or, if no civil penalty is provided, default penalties pursuant to Labor Code section 2699(f)(2).

70. Plaintiff seeks these civil penalties from Defendants pursuant to Labor Code sections 2699(a) and 2699.3.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;

- 1 c. For reasonable attorney's fees and costs incurred pursuant to California Labor
2 Code section 1194;
- 3 d. Liquidated damages pursuant to California Labor Code section 1194.2;
- 4 4. As to the Third Cause of Action:
- 5 a. Wages in an amount to be proven at trial;
- 6 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
7 section 1021.5;
- 8 5. As to the Fourth Cause of Action:
- 9 a. Wages in an amount to be proven at trial;
- 10 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
11 section 1021.5;
- 12 6. As to the Fifth Cause of Action:
- 13 a. Penalties as provided for in Labor Code section 226, including the greater of all
14 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
15 violation occurred and one hundred dollars (\$100.00) per employee for each
16 violation in the subsequent pay periods, but not to exceed four thousand dollars
17 (\$4,000.00);
- 18 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
19 226(e);
- 20 7. As to the Seventh Cause of Action:
- 21 a. An amount to be proven at trial;
- 22 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
- 23 8. As to the Ninth Cause of Action:
- 24 a. For civil penalties as provided for in the Labor Code for each enumerated
25 violation in the amount of \$2,000,000;
- 26 b. For those Labor Code sections, the violation of which there is no civil penalty
27 provided, the default penalty provided in Labor Code section 2699(f): for any
28 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay

1 period; For any subsequent violation, two hundred dollars (\$200) for each
2 aggrieved employee per pay period;

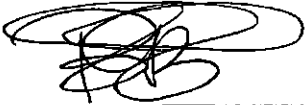
- 3 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
4 d. For any other remedies as allowed by law and/or deemed appropriate by the
5 Court;

6 9. For such other and further relief as this Court may deem just and proper,
7 including, but not limited to:

- 8 a. Wages as proved at trial;
9 b. Injunctive and Declaratory relief;
10 c. Attorney's fees and costs as provided for by law; and
11 d. Interest.

12
13 Dated: January 4, 2022

Shimoda Law Corp.

14
15 By: 

16 Galen T. Shimoda
17 Justin P. Rodriguez
18 Brittany V. Berzin
19 Attorneys for Plaintiff
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1 *Vasquez v. Chriswell Home Improvements, Inc.*
2 *Sacramento County Superior Court, Case No. 34-2021-00305938*

3 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Erika F. Collazo, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party to the
7 within above-entitled action.

8 On January 4, 2022, I served the following documents on the party below:

- 9
 - 10 • First Amended Class Action Complaint

11 Brian Coggins (SBN: 239481) 12 COGGINS LAW 13 9001 Foothills Blvd., Ste. 110 14 Roseville, CA 95747 15 Telephone: (916) 270-2895 16 Facsimile: (916) 270-2894 17 Email: blc@cogginslawoffice.com	
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18 [XXX] [By Mail] I am familiar with my employer's practice for the collection and
19 processing of correspondence for mailing with the United States Postal
20 Service and that each day's mail is deposited with the United States Postal
21 Service that same day in the ordinary course of business. On the date set forth
22 above, I served the aforementioned document(s) on the parties in said action
23 by placing a true copy thereof enclosed in a sealed envelope with postage
24 thereon fully prepaid, for collection and mailing on this date, following
25 ordinary business practices, at Elk Grove, California, addressed as set forth
26 above.

27 [] [By Personal Service] By personally delivering a true copy thereof to the
28 office of the addressee above.

[] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown
above. No error was reported by the e-mail service that I used.

[] [By Overnight Courier] By causing a true copy and/or original thereof to be
personally delivered via the following overnight courier service: _____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is
true and correct, and that this declaration was executed on January 4, 2022, at Elk Grove, California.

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