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individually, and on behalf of all other similarly
situated current and former employees of Defendants

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

PEDRO ISMAEL PEDROSO, individually,
and on behalf of all other similarly situated
current and former employees of Defendants;

Plaintiffs,

vs.

OTAY LANDFILL, INC., a corporation;
REPUBLIC SERVICES ALLIANCE
GROUP, INC., a corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO. 37-2021-00043223-CU-OE-CTL

CLASS ACTION COMPLAINT FOR:

1. Failure to Provide Adequate Meal Periods;
2. Failure to Provide Adequate Rest Periods;
3. Failure to Timely Pay Minimum and Straight Time Wages;
4. Failure to Timely Pay Overtime Compensation;
5. Failure to Pay All Wages Due Upon Termination of Employment;
6. Failure to Provide Accurate Wage Statements and Maintain Required Payroll Records;
7. Unfair Business Practices (California Business & Professions Code, § 17200 et seq.); and
8. Representative Action for Civil Penalties (California Labor Code, §§ 2698-2699.5)

DEMAND FOR JURY TRIAL

1 Plaintiff PEDRO ISRAEL PEDROSO, on behalf of himself and all other similarly
2 situated current and former employees of Defendants OTAY LANDFILL, INC. and REPUBLIC
3 SERVICES ALLIANCE GROUP, INC., complains and alleges as follows:

4 INTRODUCTION & GENERAL ALLEGATIONS

5 1. Plaintiff PEDRO ISRAEL PEDROSO, individually, and on behalf of all other
6 similarly situated current and former employees of Defendants OTAY LANDFILL, INC. and
7 REPUBLIC SERVICES ALLIANCE GROUP, INC., brings this action against Defendants
8 OTAY LANDFILL, INC. and REPUBLIC SERVICES ALLIANCE GROUP, INC. for California
9 Labor Code violations stemming from their failure to provide adequate meal and rest periods,
10 failure to pay PLAINTIFFS for all hours worked, including minimum wage, straight time, and
11 overtime pay, failure to timely pay all wages due to terminated employees, and failure to furnish
12 accurate wage statements to PLAINTIFFS and maintain required payroll records.

13 2. Plaintiff PEDRO ISRAEL PEDROSO brings his Causes of Action individually
14 and on behalf of current and former employees of DEFENDANTS (hereinafter collectively
15 referred to as "PLAINTIFFS" and defined more fully below).

16 3. At all times relevant hereto, PLAINTIFFS were residents of the State of
17 California and worked for DEFENDANTS in the State of California as hourly, nonexempt
18 employees, for a period of time within the four years preceding the filing of this action.

19 4. Throughout the time period involved in this case, DEFENDANTS maintained a
20 policy and practice of failing to provide PLAINTIFFS with timely, adequate and duty-free meal
21 periods and rest breaks. DEFENDANTS regularly required PLAINTIFFS to work in excess of
22 five consecutive hours in one workday without a 30-minute, continuous and uninterrupted meal
23 period, or without compensating PLAINTIFFS for meal periods that were not provided in
24 accordance with California law. Furthermore, DEFENDANTS regularly required PLAINTIFFS
25 to work 10 or 12 hour shifts without any rest breaks whatsoever and without compensating
26 PLAINTIFFS for rest breaks that were not provided in accordance with California law.

27 5. DEFENDANTS also failed to maintain a policy and practice of recording whether
28 PLAINTIFFS were taking their required meal and rest periods. As a result of DEFENDANTS'

1 failure to accurately record all hours worked by PLAINTIFFS and the rates of pay applicable
2 thereto, DEFENDANTS failed to timely pay, twice per month, all wages earned by
3 PLAINTIFFS, in violation of California law.

4 6. Throughout the time period involved in this case, DEFENDANTS maintained a
5 policy and practice of scheduling PLAINTIFFS to work in shifts exceeding 12 hours per day.
6 Given DEFENDANTS' failure to permit PLAINTIFFS to take meal and rest periods in
7 accordance with California law, DEFENDANTS failed to pay PLAINTIFFS overtime rates when
8 PLAINTIFFS worked in excess of eight hours in one workday or double time rates when
9 PLAINTIFFS worked in excess of 12 hours in one workday.

10 7. As a result of DEFENDANTS' systematic failure to compensate PLAINTIFFS for
11 meal and rest periods that were not provided to PLAINTIFFS in accordance with California law,
12 the itemized wage statements DEFENDANTS provided to PLAINTIFFS were inaccurate.
13 Specifically, the wage statements that DEFENDANTS furnished to PLAINTIFFS failed to
14 accurately state the gross and net wages earned by PLAINTIFFS. PLAINTIFFS were injured as a
15 result of these violations because, among other reasons: (a) PLAINTIFFS were led to believe that
16 they were not entitled to be paid premium wages for meal and rest period violations, even though
17 they were; (b) PLAINTIFFS were led to believe that they had been paid the premium wages for
18 meal and rest period violations to which they were entitled, even though they had not; (c)
19 PLAINTIFFS were prevented from determining the correct amount of wages owed to them; (d)
20 PLAINTIFFS were forced to perform complex mathematical computations to determine the
21 correct wages owed to them, which computations PLAINTIFFS would not have had to make if
22 the wage statements had been accurate; (e) PLAINTIFFS failed to receive the full extent of
23 Social Security, disability, unemployment, and other governmental benefits owed to them; and (f)
24 PLAINTIFFS failed to receive all wages to which they were entitled.

25 THE PARTIES TO EACH CAUSE OF ACTION

26 A. Plaintiffs

27 8. PLAINTIFFS are or were employed by DEFENDANTS as hourly, non-exempt
28 employees in the State of California for the period of time within the four years preceding the

1 filing of this action.

2 9. Plaintiff PEDRO ISRAEL PEDROSO was hired by DEFENDANTS on or about
3 September 15, 2019 as an hourly, non-exempt “landfill laborer” and “driver.”

4 10. PLAINTIFFS reserve the right to seek leave to amend this Class Action
5 Complaint to add new Plaintiffs, if necessary, in order to establish suitable representative(s)
6 pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and
7 other applicable law.

8 **B. Defendants**

9 11. PLAINTIFFS are informed and believe and thereupon allege that Defendants
10 OTAY LANDFILL, INC. and REPUBLIC SERVICES ALLIANCE GROUP, INC. are
11 authorized to conduct business, and are actually conducting business, in the State of California.

12 12. PLAINTIFFS do not know the true names or capacities of the persons or entities
13 sued herein as DOES 1-50, inclusive, and therefore sues said Defendants by such fictitious
14 names. Each of the DOE Defendants was in some manner legally responsible for the damages
15 suffered by PLAINTIFFS as alleged herein. PLAINTIFFS will amend this Class Action
16 Complaint to set forth the true names and capacities of these Defendants when they have been
17 ascertained, together with appropriate charging allegations, as may be necessary.

18 13. At all times mentioned herein, the Defendants named as DOES 1-50, inclusive,
19 and each of them, were residents of, doing business in, availed themselves of the jurisdiction of,
20 and/or injured a significant number of the PLAINTIFFS in the State of California.

21 14. PLAINTIFFS are informed and believe and thereon allege that at all relevant
22 times each Defendant, directly or indirectly, or through agents or other persons, employed
23 PLAINTIFFS and exercised control over their wages, hours, and working conditions.
24 PLAINTIFFS are informed and believe and thereon allege that, at all relevant times, each
25 Defendant was the principal, agent, partner, joint venturer, officer, director, controlling
26 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
27 interest of some or all of the other Defendants, and was engaged with some or all of the other
28 Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the

1 other Defendants so as to be liable for their conduct with respect to the matters alleged below.
2 PLAINTIFFS are informed and believe and thereon allege that each Defendant acted pursuant to
3 and within the scope of the relationships alleged above, that each Defendant knew or should have
4 known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the
5 conduct of all other Defendants.

6 15. Defendants OTAY LANDFILL, INC., REPUBLIC SERVICES ALLIANCE
7 GROUP, INC., and DOES 1-50 are collectively referred to herein as "Defendants."

8 CLASS ACTION ALLEGATIONS

9 16. Plaintiff PEDRO ISRAEL PEDROSO brings this action individually, as well as
10 on behalf of each and all other persons similarly situated, and thus, seeks class certification under
11 California Code of Civil Procedure section 382.

12 17. All claims alleged herein arise under California law for which Plaintiff PEDRO
13 ISRAEL PEDROSO seeks relief authorized by California law.

14 18. The proposed Class is defined as:

15 All persons employed by DEFENDANTS to work in any non-exempt hourly paid job
16 position in California at any time beginning four years before the filing of the initial
17 complaint in this action and ending when notice to the Class is sent. For purposes
18 of this definition, "Defendants" means OTAY LANDFILL, INC., REPUBLIC
SERVICES ALLIANCE GROUP, INC., and any of the fictitiously named
Defendants (Does 1 through 50).

19 19. PLAINTIFFS reserve the right to establish other sub-classes as appropriate.

20 20. At all material times, Plaintiff PEDRO ISRAEL PEDROSO was a member of the
21 Class.

22 21. Plaintiff PEDRO ISRAEL PEDROSO undertakes this action for the benefit of all
23 Class members.

24 22. There is a well-defined community of interest in the litigation and the Class is
25 readily ascertainable:

26 (a) Numerosity: The members of the Class (and each subclass, if any) are so
27 numerous that joinder of all members would be unfeasible and impractical. The membership of
28 the entire Class is unknown to Plaintiff PEDRO ISRAEL PEDROSO at this time, however, the

1 Class is estimated to be greater than 100 individuals and the identity of such membership is
2 readily ascertainable by inspection of DEFENDANTS' records.

3 (b) Typicality: Plaintiff PEDRO ISRAEL PEDROSO is qualified to, and will,
4 fairly and adequately protect the interests of each Class member with whom there is a shared,
5 well-defined community of interest, and Plaintiff PEDRO ISRAEL PEDROSO's claims (or
6 defenses, if any) are typical of all Class members' claims as demonstrated herein.

7 (c) Adequacy: Plaintiff PEDRO ISRAEL PEDROSO is qualified to, and will,
8 fairly and adequately protect the interests of each Class member with whom there is a shared,
9 well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff
10 PEDRO ISRAEL PEDROSO has no conflicts with or interests antagonistic to any Class member.
11 Plaintiff PEDRO ISRAEL PEDROSO's attorneys, the proposed class counsel, are versed in the
12 rules governing class action discovery, certification, and settlement. Plaintiff PEDRO ISRAEL
13 PEDROSO has incurred, and throughout the duration of this action, will continue to incur costs
14 and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of
15 this action for the substantial benefit of each Class member.

16 (d) Superiority: A Class Action is superior to other available methods for the
17 fair and efficient adjudication of the controversy, including consideration of:

- 18 1) The interests of the members of the Class in individually
19 controlling the prosecution or defense of separate actions;
- 20 2) The extent and nature of any litigation concerning the controversy
21 already commenced by or against members of the Class;
- 22 3) The desirability or undesirability of concentrating the litigation of
23 the claims in the particular forum; and
- 24 4) The difficulties likely to be encountered in the management of a
25 class action.

26 (e) Public Policy Considerations: Employers in the State of California violate
27 employment and labor laws every day. Current employees are often afraid to assert their rights
28 out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions

1 because they believe their former employers might damage their future endeavors through
2 negative references and/or other means. Class actions provide the class members who are not
3 named in the complaint with a type of anonymity that allows for the vindication of their rights at
4 the same time as their privacy is protected.

5 23. There are common questions of law and fact as to the Class (and each subclass, if
6 any) that predominate over questions affecting only individual members, including without
7 limitation, whether, as alleged herein, DEFENDANTS have:

8 (a) Failed to provide adequate meal periods and pay meal period premium
9 wages to Class members;

10 (b) Failed to authorize and permit adequate rest periods and pay rest period
11 premium wages to Class members;

12 (c) Failed to timely pay Class members for all hours worked, including
13 minimum wages, straight time wages, and overtime wages;

14 (d) Failed to promptly pay all wages due to PLAINTIFFS upon their discharge
15 or resignation; and

16 (f) Failed to provide PLAINTIFFS with accurate wages statements.

17 24. This Court should permit this action to be maintained as a class action pursuant to
18 California Code of Civil Procedure section 382 because:

19 (a) The questions of law and fact common to the Class predominate over any
20 question affecting only individual members;

21 (b) A class action is superior to any other available method for the fair and
22 efficient adjudication of the claims of the members of the Class;

23 (c) The members of the Class are so numerous that it is impractical to bring
24 all members of the class before the Court;

25 (d) PLAINTIFFS will not be able to obtain effective and economic legal
26 redress unless the action is maintained as a class action;

27 (e) There is a community of interest in obtaining appropriate legal and
28 equitable relief for the statutory violations, and in obtaining adequate compensation for the

1 damages and injuries for which DEFENDANTS are responsible in an amount sufficient to
2 adequately compensate PLAINTIFFS for the injuries sustained;

3 (f) Without class certification, the prosecution of separate actions by
4 individual members of the class would create a risk of:

5 1) Inconsistent or varying adjudications with respect to individual
6 members of the Class which would establish incompatible standards of conduct for
7 DEFENDANTS; and/or

8 2) Adjudications with respect to the individual members which
9 would, as a practical matter, be dispositive of the interests of other members not parties to the
10 adjudications, or would substantially impair or impede their ability to protect their interests,
11 including but not limited to the potential for exhausting the funds available from those parties
12 who are, or may be, responsible DEFENDANTS;

13 (g) DEFENDANTS have acted or refused to act on grounds generally
14 applicable to the Class, thereby making final injunctive relief appropriate with respect to the class
15 as a whole.

16 25. Plaintiff PEDRO ISRAEL PEDROSO contemplates the eventual issuance of
17 notice to the proposed members of the Class that would set forth the subject and nature of the
18 instant action. DEFENDANTS' own business records may be utilized for assistance in the
19 preparation and issuance of the contemplated notices. To the extent that any further notices may
20 be required, Plaintiff PEDRO ISRAEL PEDROSO would contemplate the use of additional
21 techniques and forms commonly used in class actions, such as published notice, e-mail notice,
22 website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class
23 and deemed necessary and/or appropriate by the Court.

24 **FIRST CAUSE OF ACTION**

25 **(Against All Defendants for Failure to Provide Adequate Meal Periods)**

26 **[California Labor Code, §§ 226.7(b) & 512(a); IWC Wage Order No. 9-2001(11)(A), (C)]**

27 26. PLAINTIFFS incorporate by reference and re-allege as if fully stated herein the
28 material allegations heretofore set out in this Class Action Complaint.

1 27. Under California law, DEFENDANTS had an affirmative duty to PLAINTIFFS,
2 after they had been working for five consecutive hours in one workday, to relieve PLAINTIFFS
3 of all duties so they could take a duty-free, continuous and uninterrupted meal period of not less
4 than 30 minutes. (See California Labor Code, §§ 226.7, subd. (b), & 512, subd. (a); Industrial
5 Welfare Commission (“IWC”) Order No. 9-2001(11)(A) & (C).) Despite these legal
6 requirements, DEFENDANTS regularly required PLAINTIFFS to work more than five
7 consecutive hours without a duty-free, uninterrupted meal period of not less than 30 minutes,
8 and/or failed to authorize or permit PLAINTIFFS to leave the premises on their meal periods.

9 28. Pursuant to California Labor Code section 226.7, subdivision (c), if an employer
10 fails to provide an employee with an adequate meal period in accordance with California law, the
11 employer must pay the employee one hour of additional pay at the employee’s “regular rate of
12 compensation” for each work day that the meal period is not provided. (See also IWC Order No.
13 9-2001(11)(D).) Despite these legal requirements, DEFENDANTS regularly failed to pay
14 PLAINTIFFS the additional wages to which they were entitled for meal periods that were not
15 provided in accordance with California law.

16 29. PLAINTIFFS are informed and believe and thereupon allege that DEFENDANTS
17 maintained a policy and practice of failing to pay PLAINTIFFS the additional wages to which
18 they were entitled for meal periods that were not provided in accordance with California law.

19 30. California Labor Code sections 226, subdivision (a), and 1174, subdivision (d),
20 and IWC Order No. 9-2001(7)(A), required DEFENDANTS to record and maintain, among other
21 things, the number of hours worked by PLAINTIFFS, the applicable rates of pay for all hours
22 worked, and the amount of gross wages paid to PLAINTIFFS.

23 31. PLAINTIFFS are informed and believe and thereupon allege that DEFENDANTS
24 willfully violated Labor Code sections 226, subdivision (a), and 1174, subdivision (d), and IWC
25 Order No. 9-2001(7)(A), by failing to accurately record the number of hours worked by
26 PLAINTIFFS, the appropriate rates of pay for all hours worked, and the gross wages due to
27 PLAINTIFFS.

28 32. As a result of DEFENDANTS’ failure to comply with Labor Code sections 226,

subdivision (a), and 1174, subdivision (d), and IWC Order No. 9-2001(7)(A), DEFENDANTS have made it difficult to calculate the full extent of meal period premium wage compensation due to PLAINTIFFS.

33. As a proximate result of DEFENDANTS' wage and hour law violations, PLAINTIFFS have been damaged in an amount according to proof at time of trial, and seek all wages earned and due, interest, penalties, attorneys' fees, and costs of suit, including penalties provided by California Labor Code section 558, subdivision (a).

SECOND CAUSE OF ACTION

(Against All Defendants for Failure to Provide Rest Periods)

[Cal. Labor Code, § 226.7(b); IWC Wage Order No. 9-2001(12)(A)]

34. PLAINTIFFS incorporate by reference and re-allege as if fully stated herein the material allegations heretofore set out in this Class Action Complaint.

35. Under California law, DEFENDANTS had an affirmative duty to PLAINTIFFS, for every four hours worked (or major fraction thereof), to relieve PLAINTIFFS of all duty so they could take a duty-free, continuous and uninterrupted rest break of not less than 10 minutes. (See California Labor Code, § 226.7, subd. (b); IWC Order No. 9-2001(12)(A).) Despite these legal requirements, DEFENDANTS regularly failed to authorize or permit PLAINTIFFS to take duty-free rest breaks of not less than 10 minutes for every four hours of work or major fraction thereof.

36. Pursuant to California Labor Code section 226.7, subdivision (c), if an employer fails to provide an employee with an adequate rest period in accordance with California law, the employer must pay the employee one hour of additional pay at the employee's "regular rate of compensation" for each work day that the rest period is not provided. (See also IWC Order No. 9-2001(12)(B).) Despite these legal requirements, DEFENDANTS regularly failed to pay PLAINTIFFS the additional wages to which they were entitled for rest periods that were not provided in accordance with California law.

37. PLAINTIFFS are informed and believe and thereupon allege that DEFENDANTS maintained a policy and practice of failing to pay PLAINTIFFS the additional wages to which

1 they were entitled for rest periods that were not provided in accordance with California law.

2 38. California Labor Code sections 226, subdivision (a), and 1174, subdivision (d),
3 and IWC Order No. 9-2001(7)(A), required DEFENDANTS to record and maintain, among other
4 things, the number of hours worked by PLAINTIFFS, the applicable rates of pay for all hours
5 worked, and the amount of gross wages paid to PLAINTIFFS.

6 39. PLAINTIFFS are informed and believe and thereupon allege that DEFENDANTS
7 willfully violated Labor Code sections 226, subdivision (a), and 1174, subdivision (d), and IWC
8 Order No. 9-2001(7)(A), by failing to accurately record the number of hours worked by
9 PLAINTIFFS, the appropriate rates of pay for all hours worked, and the gross wages due to
10 PLAINTIFFS.

11 40. As a result of DEFENDANTS' failure to comply with Labor Code sections 226,
12 subdivision (a), and 1174, subdivision (d), and IWC Order No. 9-2001(7)(A), DEFENDANTS
13 have made it difficult to calculate the full extent of rest period premium wage compensation due
14 to PLAINTIFFS.

15 41. As a proximate result of DEFENDANTS' wage and hour law violations,
16 PLAINTIFFS have been damaged in an amount according to proof at time of trial, and seek all
17 wages earned and due, interest, penalties, attorneys' fees, and costs of suit, including penalties
18 provided by California Labor Code section 558, subdivision (a).

19 **THIRD CAUSE OF ACTION**

20 **(Against all Defendants for Failure to Timely Pay Minimum and Straight Time Wages)**

21 **[Cal. Lab. Code, §§ 204(a), 1197, & 1194(a); IWC Wage Order No. 9-2001(4)(A)]**

22 42. PLAINTIFFS incorporate by reference and re-allege as if fully stated herein the
23 material allegations heretofore set out in this Class Action Complaint.

24 43. California Labor Code sections 1197 and 204, subdivision (a), and IWC Order
25 No. 9-2001(4)(A), required DEFENDANTS to pay to PLAINTIFFS all wages owed to them
26 twice during each calendar month, on days designated in advance by DEFENDANTS as the
27 regular paydays. PLAINTIFFS are informed and believe and thereupon allege that by reason of
28 DEFENDANTS' policies and practices of failing to pay premium wages to PLAINTIFFS for

meal and rest period violations, DEFENDANTS violated California Labor Code sections 1197 and 204, subdivision (a), and IWC Order No. 9-2001(4)(A).

44. California Labor Code section 226, subdivision (a), required DEFENDANTS to provide to PLAINTIFFS, either semimonthly or at the time of each payment of wages, an “accurate itemized statement in writing” showing, among other things, the total number of hours worked by PLAINTIFFS that period, the applicable rates of pay for all hours worked, and the amount of gross wages paid to PLAINTIFFS that period.

45. PLAINTIFFS are informed and believe and thereupon allege that DEFENDANTS willfully violated Labor Code section 226, subdivision (a), by failing to accurately record the number of hours worked by PLAINTIFFS, the appropriate rates of pay for all hours worked, and the gross wages due to PLAINTIFFS.

46. As a result of DEFENDANTS’ failure to comply with Labor Code section 226, subdivision (a), DEFENDANTS have made it difficult to calculate the full extent of compensation due to PLAINTIFFS.

47. Pursuant to California Labor Code section 1194.2, subdivision (a), PLAINTIFFS are entitled to recover liquidated damages (double damages) for DEFENDANTS’ failure to pay minimum wages.

48. As a proximate result of DEFENDANTS’ wage and hour law violations, PLAINTIFFS have been damaged in an amount according to proof at time of trial, and seek all wages earned and due, interest, penalties, attorneys’ fees, and costs of suit.

FOURTH CAUSE OF ACTION

(Against all Defendants for Failure to Timely Pay Overtime Compensation)

[Cal. Lab. Code, §§ 510(a), 204(b)(1), 1194(a)]

49. PLAINTIFFS incorporate by reference and re-allege as if fully stated herein the material allegations heretofore set out in this Class Action Complaint.

50. California Labor Code section 204, subdivision (b)(1), required DEFENDANTS to pay PLAINTIFFS for overtime and double time wages not later than “the payday for the next regular payroll period.” PLAINTIFFS are informed and believe and thereupon allege that as a

1 result of DEFENDANTS' failure to pay overtime and double time rates to PLAINTIFFS for
2 shifts that exceeded 12 hours, DEFENDANTS violated California Labor Code section 204,
3 subdivision (b)(1).

4 51. PLAINTIFFS are informed and believe and thereupon allege that DEFENDANTS
5 willfully violated Labor Code section 226, subdivision (a), by failing to accurately record the
6 number of hours worked by PLAINTIFFS, the appropriate rates of pay for all hours worked, and
7 the gross wages due to PLAINTIFFS.

8 52. As a result of DEFENDANTS' failure to comply with Labor Code section 226,
9 subdivision (a), DEFENDANTS have made it difficult to calculate the full extent of overtime
10 compensation due to PLAINTIFFS.

11 53. Pursuant to California Labor Code section 1194.2, subdivision (a), PLAINTIFFS
12 are entitled to recover liquidated damages (double damages) for DEFENDANTS' failure to pay
13 overtime wages.

14 54. As a proximate result of DEFENDANTS' wage and hour law violations,
15 PLAINTIFFS have been damaged in an amount according to proof at time of trial, and seek all
16 wages earned and due, interest, penalties, attorneys' fees, and costs of suit.

17 **FIFTH CAUSE OF ACTION**

18 **(Against all Defendants for Failure to Pay All Wages Due Upon Termination of**
19 **Employment)**

20 **[Cal. Lab. Code, §§ 201 - 203]**

21 55. PLAINTIFFS incorporate by reference and re-allege as if fully stated herein the
22 material allegations heretofore set out in this Class Action Complaint.

23 56. At all times relevant hereto, California Labor Code sections 201 and 202 provided
24 that if an employer discharges an employee, the wages earned and unpaid at the time of discharge
25 are due and payable immediately, and if an employee voluntarily leaves his or her employment,
26 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,
27 unless the employee has given seventy-two (72) hours previous notice of his or her intention to
28 quit, in which case the employee is entitled to his or her wages at the time of quitting.

1 57. Within the applicable statute of limitations, Plaintiff PEDRO ISRAEL PEDROSO
2 and other members of the Class quit or were terminated from their employment with
3 DEFENDANTS. However, DEFENDANTS failed and continue to fail to pay Plaintiff PEDRO
4 ISRAEL PEDROSO and other members of the Class who have quit or been terminated, without
5 abatement, all wages required to be paid pursuant to California Labor Code sections 201 and 202,
6 either at the time of discharge, or within seventy-two (72) hours of leaving DEFENDANTS'
7 employ.

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

12 59. Plaintiff PEDRO ISRAEL PEDROSO and other Class members are entitled to
13 recover from DEFENDANTS their additionally accruing wages for each day they were not paid,
14 at their regular hourly rate of pay, up to 30 days maximum pursuant to California Labor Code
15 section 203.

16 **SIXTH CAUSE OF ACTION**

17 **(Against all Defendants for Failure to Provide Accurate Statements**

18 **and Maintain Required Records)**

19 **[Cal. Lab. Code, §§ 226(a), 1174(d), 1174.5; IWC Wage Order No. 9-2001(7)]**

20 60. PLAINTIFFS incorporate by reference and re-allege as if fully stated herein the
21 material allegations heretofore set out in this Class Action Complaint.

22 61. At all material times set forth herein, California Labor Code section 226,
23 subdivision (a), provided that every employer shall furnish each of his or her employees an
24 accurate itemized wage statement in writing showing nine pieces of information, including: (1)
25 gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
26 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
27 deductions, provided that all deductions made on written orders of the employee may be
28 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for

1 which the employee is paid, (7) the name of the employee and the last four digits of his or her
2 social security number or an employee identification number other than a social security number,
3 (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly
4 rates in effect during the pay period and the corresponding number of hours worked at each
5 hourly rate by the employee.

6 62. DEFENDANTS have intentionally and willfully failed to provide PLAINTIFFS
7 with complete and accurate wage statements. The deficiencies include, among other things, the
8 failure to correctly identify the gross wages earned by PLAINTIFFS, the failure to list the true
9 "total hours worked" by PLAINTIFFS, and the failure to list the true net wages earned.

10 63. As a result of DEFENDANTS' violation of California Labor Code section 226,
11 subdivision (a), PLAINTIFFS have suffered injury and damage to their statutorily-protected
12 rights. Specifically, PLAINTIFFS were denied both their legal right to receive, and their
13 protected interest in receiving, accurate, itemized wage statements under California Labor Code
14 section 226, subdivision (a).

15 64. Calculation of the true wage entitlement for PEDRO ISRAEL PEDROSO and the
16 Class is difficult and time consuming. As a result of this unlawful burden, PLAINTIFFS were
17 also injured as a result of having to bring this action to attempt to obtain correct wage
18 information following DEFENDANTS' refusal to comply with the mandates of California's
19 Labor Code and related laws and regulations.

20 65. PLAINTIFFS are entitled to recover from DEFENDANTS the greater of their
21 actual damages caused by DEFENDANTS' failure to comply with California Labor Code section
22 226, subdivision (a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
23 employee. (Cal. Labor Code, § 226, subd. (e)(1).) PLAINTIFFS are also entitled to injunctive
24 relief to ensure compliance with this section, pursuant to California Labor Code section 226,
25 subdivision (h).

26 ///

27 ///

1 **SEVENTH CAUSE OF ACTION**

2 **(Against all Defendants for Violation of California Business &**
3 **Professions Code, § 17200 et seq.)**

4 66. PLAINTIFFS incorporate by reference and re-allege as if fully stated herein the
5 material allegations and Causes of Action heretofore set out in this Class Action Complaint.

6 67. DEFENDANTS, and each of them, are "persons" as defined under Business and
7 Professions Code section 17201.

8 68. DEFENDANTS' conduct, as alleged herein, has been, and continues to be, unfair,
9 unlawful, and harmful to PLAINTIFFS and to the general public. PLAINTIFFS seek to enforce
10 important rights affecting the public interest within the meaning of Code of Civil Procedure
11 section 1021.5.

12 69. DEFENDANTS' activities, as alleged herein, are violations of California law, and
13 constitute unlawful business acts and practices in violation of California Business and
14 Professions Code section 17200 et seq.

15 70. A violation of California Business & Professions Code section 17200 et seq. may
16 be predicated on the violation of any state or federal law. All of the acts described herein as
17 violations of, among other things, the California Labor Code, are unlawful and in violation of
18 public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous,
19 and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of
20 California Business and Professions Code section 17200 et seq.

21 71. DEFENDANTS' failure to provide meal periods in accordance with California
22 Labor Code sections 226.7, subdivision (b), and 512, subdivision (a), and the IWC Wage Orders,
23 as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and
24 Professions Code section 17200 et seq.

25 72. DEFENDANTS' failure to authorize and permit rest periods in accordance with
26 California Labor Code section 226.7, subdivision (b), and the IWC Wage Orders, as alleged
27 above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code
28 section 17200 et seq.

1 73. DEFENDANTS' failure to pay minimum and straight time wages constitutes
2 unlawful and/or unfair activity prohibited by Business and Professions Code section 17200 et
3 seq.

4 74. DEFENDANTS' failure to provide accurate itemized wage statements in
5 accordance with California Labor Code section 226, subdivision (a), as alleged above, constitutes
6 unlawful and/or unfair activity prohibited by Business and Professions Code section 17200 et
7 seq.

8 75. By and through their unfair, unlawful and/or fraudulent business practices
9 described herein, DEFENDANTS have obtained valuable property, money, and services from
10 PLAINTIFFS and have deprived them of valuable rights and benefits guaranteed by law, all to
11 their detriment.

12 76. PLAINTIFFS suffered monetary injuries as a direct result of DEFENDANTS'
13 wrongful conduct.

14 77. PLAINTIFFS are entitled to, and do, seek such relief as may be necessary to
15 disgorge money and/or property which DEFENDANTS have wrongfully acquired, or of which
16 PLAINTIFFS have been deprived, by means of the above-described unfair, unlawful and/or
17 fraudulent business practices. PLAINTIFFS are not obligated to establish individual knowledge
18 of the wrongful practices of DEFENDANTS in order to recover restitution.

19 78. PLAINTIFFS are further entitled to and do seek a declaration that the above
20 described business practices are unfair, unlawful and/or fraudulent, as well injunctive relief
21 restraining DEFENDANTS, and each of them, from engaging in any of the above-described
22 unfair, unlawful and/or fraudulent business practices in the future.

23 79. PLAINTIFFS have no plain, speedy, and/or adequate remedy at law to redress the
24 injuries which they suffered as a consequence of the DEFENDANTS' unfair, unlawful and/or
25 fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent business
26 practices described above, PLAINTIFFS have suffered and will continue to suffer irreparable
27 harm unless DEFENDANTS, and each of them, are restrained from continuing to engage in said
28 unfair, unlawful and/or fraudulent business practices.

1 80. PLAINTIFFS also allege that if DEFENDANTS are not enjoined from the
2 conduct set forth herein above, they will continue to avoid paying the appropriate taxes,
3 insurance and other withholdings.

4 81. Pursuant to California Business and Professions Code section 17200 et seq.,
5 PLAINTIFFS are entitled to restitution of the wages withheld and retained by DEFENDANTS
6 during a period that commences four years prior to the filing of this Class Action Complaint; a
7 permanent injunction requiring DEFENDANTS to pay all outstanding wages due to
8 PLAINTIFFS; an award of attorneys' fees pursuant to California Code of Civil Procedure section
9 1021.5 and other applicable laws; and an award of costs.

10 **EIGHTH CAUSE OF ACTION**

11 **(Against all Defendants for Representative Action for Civil Penalties)**

12 **[Cal. Lab. Code, § 2698 et seq.]**

13 82. PLAINTIFFS incorporate by reference and re-allege as if fully stated herein the
14 material allegations and Causes of Action heretofore set out in this Complaint.

15 83. California Labor Code section 2699, subdivision (a), provides that
16 “[n]otwithstanding any other provision of law, any provision of this code that provides for a civil
17 penalty to be assessed and collected by the Labor and Workforce Development Agency or any of
18 its departments, divisions, commissions, boards, agencies or employees, for a violation of this
19 code, may, as an alternative, be recovered through a civil action brought by an aggrieved
20 employee on behalf of himself or herself and other current or former employees pursuant to the
21 procedures specified in [California Labor Code] Section 2699.3.”

22 84. Pursuant to California Labor Code section 2699, subdivision (g)(1), an aggrieved
23 employee may recover civil penalties for violations of the Labor Code in a civil action, pursuant
24 to the procedures specified in section 2699.3, filed on behalf of himself or herself and other
25 current or former employees against whom one or more of the alleged violations was committed.

26 85. Pursuant to California Labor Code section 2699.3, subdivision (a), an aggrieved
27 employee alleging a violation of any provision listed in California Labor Code section 2699.5,
28 must give written notice to the Labor and Workforce Development Agency and employer of the

1 specific provisions of the Labor Code alleged to have been violated, including the facts and
2 theories to support the allegations, prior to commencement of a civil suit pursuant to California
3 Labor Code section 2699, subdivision (a). Within 60 days of said notice, the Agency must notify
4 the employer and aggrieved employee if it intends to investigate the alleged Labor Code
5 violations. If no such notice is provided or the Agency notifies the employer and aggrieved
6 employee that it does not intend to investigate the alleged Labor Code violations, then the
7 aggrieved employee may commence a civil action pursuant to section 2699, subdivision (a).

8 86. Plaintiff PEDRO ISRAEL PEDROSO has complied with the requirements of
9 California Labor Code section 2699.3, subdivision (a), and seeks to recover penalties for
10 DEFENDANTS' violations of the following provisions of the Labor Code: (A) sections 226.7,
11 subdivisions (b) and (c), and 512, subdivision (a), requiring employers to provide nonexempt
12 employees with duty-free meal periods of 30 minutes after five consecutive hours of work per
13 workday, or compensate employees for meal periods not provided in accordance with California
14 law; (B) section 226.7, subdivisions (b) and (c), requiring employers to provide nonexempt
15 employees with duty-free rest periods of 10 minutes after four consecutive hours of work per
16 workday (or major fraction thereof), or compensate employees for rest periods not provided in
17 accordance with California law; (C) sections 1197 and 204, subdivision (a), requiring employers
18 to pay employees' minimum wages twice during each calendar month, on days designated in
19 advance by the employer; (D) sections 510, subdivision (a), and 204, subdivision (b)(1),
20 requiring employers to pay employees' overtime wages not later than the next regular payroll
21 period; (E) sections 201 and 202 requiring employers to promptly pay to discharged or
22 terminated employees their earned and unpaid wages upon their discharge or termination; and (F)
23 sections 226, subdivision (a), and 1174, subdivision (d), requiring employers to maintain and
24 provide their employees accurate wage statements showing, among other things, all hours
25 worked and gross wages earned by employees.

26 87. PLAINTIFFS seek an award attorneys' fees and costs pursuant to section 2699,
27 subdivision (g)(1).

1 **PRAYER FOR RELIEF**

2 PLAINTIFFS pray for relief and judgment against DEFENDANTS, jointly and severally,
3 as follows:

4 **Class Certification**

- 5 1. That this action be certified as a class action;
- 6 2. That Plaintiff PEDRO ISRAEL PEDROSO be appointed as the representative of
7 the Class; and
- 8 3. That counsel for Plaintiff PEDRO ISRAEL PEDROSO be appointed as Class
9 Counsel.

10 **As to the First Cause of Action**

- 11 4. That the Court declare, adjudge and decree that DEFENDANTS violated
12 California Labor Code sections 226.7, subdivisions (b) and (c), and 512, subdivision (a), and the
13 related IWC Wage Orders;
- 14 5. For general unpaid wages and such general and special damages as may be
15 appropriate;
- 16 6. For pre-judgment interest on any unpaid compensation commencing from the date
17 such amounts were due;
- 18 7. For reasonable attorneys' fees and for costs of suit incurred herein; and
- 19 8. For such other and further relief as the Court may deem equitable and appropriate.

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

- 21 9. That the Court declare, adjudge and decree that DEFENDANTS violated
22 California Labor Code sections 226.7, subdivisions (b) and (c) and the related IWC Wage
23 Orders;
- 24 10. For general unpaid wages and such general and special damages as may be
25 appropriate;
- 26 11. For pre-judgment interest on any unpaid compensation commencing from the date
27 such amounts were due;
- 28 12. For reasonable attorneys' fees and for costs of suit incurred herein; and

1 13. For such other and further relief as the Court may deem equitable and appropriate

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

3 14. That the Court declare, adjudge and decree that DEFENDANTS violated
4 California Labor Code sections 204, subdivision (a), and 1197;

5 15. For general unpaid wages and such general and special damages as may be
6 appropriate;

7 16. For pre-judgment interest on any unpaid compensation commencing from the date
8 such amounts were due;

9 17. For liquidated damages;

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

11 19. For such other and further relief as the Court may deem equitable and appropriate.

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

13 20. That the Court declare, adjudge and decree that DEFENDANTS violated
14 California Labor Code sections 204, subdivision (a), and 1197 and applicable IWC Wage Orders
15 by willfully failing to pay all overtime wages due to Plaintiff PEDRO ISRAEL PEDROSO and
16 Class members;

17 21. For general unpaid wages at overtime wage rates and such general and special
18 damages as may be appropriate;

19 22. For pre-judgment interest on any unpaid overtime compensation commencing
20 from the date such amounts were due;

21 23. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
22 California Labor Code section 1194, subdivision (a); and

23 24. For such other and further relief as the Court may deem equitable and appropriate.

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

25 25. That the Court declare, adjudge and decree that DEFENDANTS violated
26 California Labor Code sections 201 and 202 and by willfully failing to pay all compensation
27 owed at the time of termination of PLAINTIFFS' termination from employment;

28 26. For all actual, consequential and incidental losses and damages, according to

1 proof;

2 27. For statutory wage penalties pursuant to California Labor Code section 203,
3 subdivision (a);

4 28. For pre-judgment interest on any unpaid wages from the date such amounts were
5 due;

6 29. For reasonable attorneys' fees and for costs of suit incurred herein; and

7 30. For such other and further relief as the Court may deem equitable and appropriate.

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

9 31. That the Court declare, adjudge and decree that DEFENDANTS willfully violated
10 the record keeping provisions of California Labor Code sections 226, subdivision (a), and 1174,
11 subdivision (d);

12 32. For all actual, consequential and incidental losses and damages, according to
13 proof;

14 33. For statutory penalties pursuant to California Labor Code section 226, subdivision
15 (e)(1);

16 34. For injunctive relief to ensure compliance with this section, pursuant to California
17 Labor Code section 226, subdivision (h);

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

19 36. For such other and further relief as the Court may deem equitable and appropriate.

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

21 37. That the Court declare, adjudge and decree that DEFENDANTS violated
22 California Business and Professions Code section 17200 et seq. by failing to provide
23 PLAINTIFFS with adequate meal and rest periods in accordance with California wage and hour
24 laws, failing to provide all compensation due to PLAINTIFFS, failing to provide accurate wage
25 statements and maintain required payroll records, and failing to pay PLAINTIFFS upon
26 termination of employment as required by California Labor Code sections 201 and 202;

27 38. For restitution of unpaid wages to PLAINTIFFS and prejudgment interest from
28 the day such amounts were due and payable;

1 39. For the appointment of a receiver to receive, manage and distribute any and all
2 funds disgorged from DEFENDANTS and determined to have been wrongfully acquired by
3 DEFENDANTS as a result of violations of California Business & Professions Code section
4 17200 et seq.;

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

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

9 42. For such other and further relief as the Court may deem equitable and appropriate.

10 **As to all Causes of Action**

11 43. For any additional relief that the Court deems just and proper.

12
13 Dated: October 8, 2021

Respectfully submitted,

14 RASTEGAR LAW GROUP, APC

15
16 By:



Farzad Rastegar
Aja M. Taormina
Attorneys for Plaintiff PEDRO ISRAEL
PEDROSO

1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFFS hereby „demand a trial by jury with respect to all issues triable of right by
3 jury.

4
5 Dated: October 8, 2021

Respectfully submitted,

6 RASTEGAR LAW GROUP, APC

7
8 By:


Farzad Rastegar
Aja M. Taormina
Attorneys for Plaintiff PEDRO ISRAEL
PEDROSO