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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

NATHAN FRANK KAMINAKA, individually,
and on behalf of all others similarly situated,

Plaintiff,

vs.

RAJA ENTERPRISES, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CVRI2103906

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

1. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
2. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
3. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802];
4. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
5. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and
6. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.];
7. Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.].

DEMAND FOR JURY TRIAL

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1 Plaintiff Nathan Frank Kaminaka (“Plaintiff”), based upon facts that either have
2 evidentiary support or are likely to have evidentiary support after a reasonable opportunity for
3 further investigation and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants Raja Enterprises, Inc., and Does 1
6 through 10 (collectively referred to as “Defendants”) for California Labor Code violations and
7 unfair business practices stemming from Defendants’ failure to pay minimum wages, failure to
8 authorize and permit rest periods, failure to maintain accurate records of hours worked, failure to
9 timely pay all wages to terminated employees, failure to indemnify necessary business expenses,
10 and failure to furnish accurate wage statements.

11 2. Plaintiff brings the First through Sixth Causes of Action individually and as a class
12 action on behalf of himself and certain current and former employees of Defendants (hereinafter
13 collectively referred to as the “Class” or “Class Members” and defined more fully below). The
14 Class consists of Plaintiff and all other persons who have been employed by any Defendants in
15 California as an hourly-paid, non-exempt employee during the statute of limitations period
16 applicable to the claims pleaded here.

17 3. Plaintiff brings the Seventh Cause of Action as a representative action under the
18 California Private Attorney General Act (“PAGA”) to recover civil penalties that are owed to
19 Plaintiff, the State of California, and past and present employees of Defendants (hereinafter
20 referred to as the “Aggrieved Employees”).

21 4. Defendants own/owned and operate/operated an industry, business, and
22 establishment within the State of California, including Riverside County. As such, and based
23 upon all the facts and circumstances incident to Defendants’ business in California, Defendants
24 are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare
25 Commission (“IWC”), and the California Business & Professions Code.

26 5. Despite these requirements, throughout the statutory period Defendants
27 maintained a systematic, company-wide policy and practice of:

28 (a) Failing to pay employees for all hours worked, including all minimum wages in

- 1 compliance with the California Labor Code and IWC Wage Orders;
- 2 (b) Failing to authorize and permit employees to take timely and duty-free rest periods in
- 3 compliance with the California Labor Code and IWC Wage Orders, and failing to pay an
- 4 additional hour's pay for each workday a rest period violation occurred;
- 5 (c) Failing to indemnify employees for necessary business expenses incurred;
- 6 (d) Willfully failing to pay employees all minimum wages due within the time period
- 7 specified by California law when employment terminates; and
- 8 (e) Failing to maintain accurate records of the hours that employees worked.
- 9 (f) Failing to provide employees with accurate, itemized wage statements containing all the
- 10 information required by the California Labor Code and IWC Wage Orders.

11 6. On information and belief, Defendants, and each of them were on actual and

12 constructive notice of the improprieties alleged herein and intentionally refused to rectify their

13 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were

14 willful and deliberate.

15 7. At all relevant times, Defendants were and are legally responsible for all of the

16 unlawful conduct, policies, practices, acts and omissions as described in each and all of the

17 foregoing paragraphs as the employer of Plaintiff and the Class. Further, Defendants are

18 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of

19 "respondeat superior".

20 **THE PARTIES**

21 **A. Plaintiff**

22 8. Plaintiff is a California resident that worked for Defendants in the County of

23 Riverside, State of California, as a delivery driver, whose employment ended in December 2020.

24 9. Plaintiff reserves the right to seek leave to amend this complaint to add new

25 plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*

26 *American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

27 **B. Defendants**

28 10. Plaintiff is informed and believes, and based upon that information and belief

alleges, that Defendant Raja Enterprises, Inc. is:

- (a) A California corporation with its principal places of business in Riverside, California.
- (b) A business entity conducting business in numerous counties throughout the State of California, including in Riverside County;
- (c) The former employer of Plaintiff, and the current and/or former employer of the putative Class. Raja Enterprises, Inc. suffered and permitted Plaintiff and the Class to work, and/or controlled their wages, hours, or working conditions;
- (d) At all times mentioned herein was and is doing business as Domino's and/or Domino's Pizza.

11. Plaintiff does not currently know the true names or capacities of the persons or entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each of the Doe Defendants was in some manner legally responsible for the damages suffered by Plaintiff and the Class as alleged herein. Plaintiff will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

12. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured a significant number of the Plaintiff and the Class in the State of California.

13. Plaintiff is informed and believes and thereon alleges that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the class definitions below, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters

1 alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted
2 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or
3 should have known about, and authorized, ratified, adopted, approved, controlled, aided and
4 abetted the conduct of all other Defendants.

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

6 14. Plaintiff is a California resident who worked for Defendants in the County of
7 Riverside, State of California, as a delivery driver whose employment ended in December 2020.
8 During the statutory period, Defendants classified Plaintiff as non-exempt, and paid Plaintiff an
9 hourly wage. During the statutory period, Plaintiff typically worked 4 to 5 days each workweek,
10 and typically in excess of 8 hours each workday.

11 15. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours
12 worked (including minimum wages), failed to authorize and permit Plaintiff to take uninterrupted
13 rest periods, failed to indemnify Plaintiff for necessary business expenses, failed to timely pay all
14 final wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish
15 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for
16 Defendants was typical and illustrative.

17 16. Throughout the statutory period, Defendants maintained a policy and practice of
18 not paying Plaintiff and the Class for all hours worked. Plaintiff and the Class were occasionally
19 required to go home without working, but Defendants failed to provide reporting time pay for
20 those instances. Further, Plaintiff and the Class earned tips from customers, but those tips were
21 not always given to the drivers. For example, if Plaintiff and the Class were required to leave
22 their shift early or were sent home early, they did not receive a share of those tips. Further,
23 Plaintiff and the Class are informed and believes that managers retained some tips that should
24 have been distributed to Plaintiff and the Class. Also, Plaintiff and the Class were required to
25 use their personal cellular telephone for work related purposes off the clock, without
26 compensation. In maintaining a practice of not paying all wages owed, Defendants failed to
27 maintain accurate records of the hours Plaintiff and the Class worked.
28

1 17. Throughout the statutory period, Defendants have wrongfully failed to authorize
2 and permit Plaintiff and the Class to take timely and duty-free rest periods. Defendants
3 sometimes, but not always, required Plaintiff and the Class to work in excess of four consecutive
4 hours a day without Defendants authorizing and permitting them to take a 10-minute, continuous
5 and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or
6 without compensating Plaintiff and the Class for rest periods that were not authorized or
7 permitted. Defendants also did not adequately inform Plaintiff and the Class of their right to take
8 a rest period. Moreover, Defendants did not have adequate policies or practices permitting or
9 authorizing rest periods for Plaintiff and the Class, nor did Defendants have adequate policies or
10 practices regarding the timing of rest periods. Defendants also did not have adequate policies or
11 practices to verify whether Plaintiff and the Class were taking their required rest periods.
12 Further, Defendants did not maintain accurate records of employee work periods, and therefore
13 Defendants cannot demonstrate that Plaintiff and the Class took rest periods during the middle of
14 each work period. Accordingly, Defendants' policy and practice was to not authorize and permit
15 Plaintiff and the Class to take rest periods in compliance with California law.

16 18. Throughout the statutory period, Defendants wrongfully required Plaintiff and the
17 Class to pay expenses that they incurred in direct discharge of their duties for Defendants without
18 reimbursement. For example, Plaintiff and the Class were required to use their own personal
19 cellular telephones during their employment, without reimbursement.

20 19. Throughout the statutory period, Defendants willfully failed and refused to timely
21 pay Plaintiff and the Class at the conclusion of their employment all wages for all minimum
22 wages, and rest period premium wages.

23 20. Throughout the statutory period, Defendants failed to furnish Plaintiff and the
24 Class with accurate, itemized wage statements showing all applicable hourly rates, and all gross
25 and net wages earned (including correct hours worked, correct wages earned for hours worked,
26 correct wages for rest periods that were not authorized and permitted to take in accordance with
27 California law, and Defendant's address). As a result of these violations of California Labor
28 Code § 226(a), the Plaintiff and the Class suffered injury because, among other things:

- 1 (a) the violations led them to believe that they were not entitled to be paid minimum
2 wages, and rest period premium wages to which they were entitled;
- 3 (b) the violations led them to believe that they had been paid the minimum and rest
4 period premium wages, even though they had not been;
- 5 (c) the violations led them to believe they were not entitled to be paid minimum and
6 rest period premium wages at the correct California rate even though they were;
- 7 (d) the violations led them to believe they had been paid minimum and rest period
8 premium wages at the correct California rate even though they had not been;
- 9 (e) the violations hindered them from determining the amounts of minimum and rest
10 period premium owed to them;
- 11 (f) in connection with their employment before and during this action, and in
12 connection with prosecuting this action, the violations caused them to have to
13 perform mathematical computations to determine the amounts of wages owed to
14 them, computations they would not have to make if the wage statements contained
15 the required accurate information;
- 16 (g) by understating the wages truly due them, the violations caused them to lose
17 entitlement and/or accrual of the full amount of Social Security, disability,
18 unemployment, and other governmental benefits;
- 19 (h) the wage statements inaccurately understated the wages, hours, and wages rates to
20 which Plaintiff and the Class were entitled, and Plaintiff and the Class were paid
21 less than the wages and wage rates to which they were entitled.

22 Thus, Plaintiff and the Class are owed the amounts provided for in California Labor Code §
23 226(e), including actual damages.

24 **CLASS ACTION ALLEGATIONS**

25 21. Plaintiff brings certain claims individually, as well as on behalf of each and all
26 other persons similarly situated, and thus, seek class certification under California Code of Civil
27 Procedure § 382.

28 22. All claims alleged herein arise under California law for which Plaintiff seeks relief

1 authorized by California law.

2 23. The proposed Class consists of and is defined as:

3 All persons who worked for any Defendant in California as an hourly, non-
4 exempt employee at any time during the period beginning four years before the
5 filing of the initial complaint in this action and ending when notice to the Class
is sent.

6 24. At all material times, Plaintiff was a member of the Class.

7 25. Plaintiff undertakes this concerted activity to improve the wages and working
8 conditions of all Class Members.

9 26. There is a well-defined community of interest in the litigation and the Class is
10 readily ascertainable:

- 11 (a) Numerosity: The members of the Class (and each subclass, if any) are so
12 numerous that joinder of all members would be unfeasible and impractical. The
13 membership of the entire Class is unknown to Plaintiff at this time, however, the
14 Class is estimated to be greater than 100 individuals and the identity of such
15 membership is readily ascertainable by inspection of Defendants' records.
- 16 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the
17 interests of each Class Member with whom there is a shared, well-defined
18 community of interest, and Plaintiff's claims (or defenses, if any) are typical of all
19 Class Members' claims as demonstrated herein.
- 20 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the
21 interests of each Class Member with whom there is a shared, well-defined
22 community of interest and typicality of claims, as demonstrated herein. Plaintiff
23 has no conflicts with or interests antagonistic to any Class Member. Plaintiff's
24 attorneys, the proposed class counsel, are versed in the rules governing class
25 action discovery, certification, and settlement. Plaintiff has incurred, and
26 throughout the duration of this action, will continue to incur costs and attorneys'
27 fees that have been, are, and will be necessarily expended for the prosecution of
28

1 this action for the substantial benefit of each class member.

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

- 4 1) The interests of the members of the Class in individually controlling the
5 prosecution or defense of separate actions;
- 6 2) The extent and nature of any litigation concerning the controversy already
7 commenced by or against members of the Class;
- 8 3) The desirability or undesirability of concentrating the litigation of the claims
9 in the particular forum; and
- 10 4) The difficulties likely to be encountered in the management of a class action.

11 (e) Public Policy Considerations: The public policy of the State of California is to
12 resolve the California Labor Code claims of many employees through a class
13 action. Indeed, current employees are often afraid to assert their rights out of fear
14 of direct or indirect retaliation. Former employees are also fearful of bringing
15 actions because they believe their former employers might damage their future
16 endeavors through negative references and/or other means. Class actions provide
17 the class members who are not named in the complaint with a type of anonymity
18 that allows for the vindication of their rights at the same time as their privacy is
19 protected.

20 27. There are common questions of law and fact as to the Class (and each subclass, if
21 any) that predominate over questions affecting only individual members, including without
22 limitation, whether, as alleged herein, Defendants have:

- 23 (a) Failed to pay Class Members for all hours worked, including minimum wages;
- 24 (b) Failed to authorize and permit rest periods and pay rest period premium wages to
25 Class Members;
- 26 (c) Failed to promptly pay all wages due to Class Members upon their discharge or
27 resignation;
- 28 (d) Failed to maintain accurate records of all hours Class Members worked;

- (e) Failed to reimburse Class Members for all necessary business expenses; and
- (f) Violated California Business & Professions Code §§ 17200 *et. seq.* as a result of their illegal conduct as described above.

28. This Court should permit this action to be maintained as a class action pursuant to California Code of Civil Procedure § 382 because:

- (a) The questions of law and fact common to the Class predominate over any question affecting only individual members;
- (b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the Class;
- (c) The members of the Class are so numerous that it is impractical to bring all members of the class before the Court;
- (d) Plaintiff, and the other members of the Class, will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendants are responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;
- (f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:
 - 1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants; and/or
 - 2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,

1 (g) Defendants have acted or refused to act on grounds generally applicable to the
2 Class, thereby making final injunctive relief appropriate with respect to the class
3 as a whole.

4 29. Plaintiff contemplates the eventual issuance of notice to the proposed members of
5 the Class that would set forth the subject and nature of the instant action. The Defendants' own
6 business records may be utilized for assistance in the preparation and issuance of the
7 contemplated notices. To the extent that any further notices may be required, Plaintiff would
8 contemplate the use of additional techniques and forms commonly used in class actions, such as
9 published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by
10 other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

11 **FIRST CAUSE OF ACTION**

12 **(Against all Defendants for Failure to Pay Minimum Wages for All Hours Worked)**

13 30. Plaintiff incorporates by reference and re-alleges as if fully stated herein
14 paragraphs 1 through 20 in this First Amended Complaint.

15 31. "Hours worked" is the time during which an employee is subject to the control of
16 an employer, and includes all the time the employee is suffered or permitted to work, whether or
17 not required to do so.

18 32. At all relevant times herein mentioned, Defendants knowingly failed to pay to
19 Plaintiff and the Class compensation for all hours they worked. By their failure to pay
20 compensation for each hour worked as alleged above, Defendants willfully violated the
21 provisions of Section 1194 of the California Labor Code, and any additional applicable Wage
22 Orders, which require such compensation to non-exempt employees.

23 33. Accordingly, Plaintiff and the Class are entitled to recover minimum wages for all
24 non-overtime hours worked for Defendants.

25 34. By and through the conduct described above, Plaintiff and the Class have been
26 deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

27 35. By virtue of the Defendants' unlawful failure to pay additional compensation to
28 Plaintiff and the Class for their non-overtime hours worked without pay, Plaintiff and the Class

suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiff and the Class, but which exceed the jurisdictional minimum of this Court, and which will be ascertained according to proof at trial.

36. By failing to keep adequate time records required by California Labor Code § 1174(d), Defendants have made it difficult to calculate the full extent of minimum wage compensation due Plaintiff and the Class.

37. Pursuant to California Labor Code section 1194.2, Plaintiff and the Class are entitled to recover liquidated damages (double damages) for Defendants' failure to pay minimum wages.

38. California Labor Code section 204 requires employers to provide employees with all wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause of action, Plaintiff and the Class were entitled to be paid twice a month at rates required by law, including minimum wages. However, during all such times, Defendants systematically failed and refused to pay Plaintiff and the Class all such wages due, and failed to pay those wages twice a month.

39. Plaintiff and the Class are also entitled to seek recovery of all unpaid minimum wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5, 218.6, and 1194(a).

SECOND CAUSE OF ACTION

(Against All Defendants for Failure to Authorize and Permit Rest Periods)

40. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 20 in this First Amended Complaint.

41. Defendants are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Section 512 of the California Labor Code, the applicable Wage Orders require that the employer permit and authorize all employees to take paid rest periods of 10 minutes each for each 4-hour period worked. Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so

required is itself a violation of California's rest break laws. It is a violation of Section 226.7 of the California Labor Code for an employer to require any employee to work during any rest period mandated under any Wage Order.

42. Despite these legal requirements, Defendants failed to authorize Plaintiff and the Class to take rest breaks, regardless of whether employees worked more than 4 hours in a workday. By their failure to permit and authorize Plaintiff and the Class to take rest periods as alleged above (or due to the fact that Defendants made it impossible or impracticable to take these uninterrupted rest periods), Defendants willfully violated the provisions of Section 226.7 of the California Labor Code and the applicable Wage Orders.

43. Under California law, Plaintiff and the Class are entitled to be paid one hour of premium wages rate for each workday he or she was not provided with all required rest break(s), plus interest thereon.

THIRD CAUSE OF ACTION

(Against All Defendants for Failure to Indemnify Necessary Business Expenses)

44. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 20 in this First Amended Complaint.

45. Defendants violated Labor Code section 2802 and the IWC Wage Orders, by failing to pay and indemnify the Plaintiff and the Class for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of Defendants.

46. As a result, Plaintiff and the Class were damaged at least in the amounts of the expenses they paid, or which were deducted by Defendants from their wages.

47. Plaintiff and the class they represent are entitled to attorney's fees, expenses, and costs of suit pursuant to Labor Code section 2802(c) and interest pursuant to Labor Code section 2802(b).

FOURTH CAUSE OF ACTION

(Against all Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time Penalties)

1 48. Plaintiff incorporates by reference and re-alleges as if fully stated herein
2 paragraphs 1 through 20 in this First Amended Complaint.

3 49. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
4 an employer discharges an employee, the wages earned and unpaid at the time of discharge are
5 due and payable immediately, and that if an employee voluntarily leaves his or her employment,
6 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,
7 unless the employee has given seventy-two (72) hours previous notice of his or her intention to
8 quit, in which case the employee is entitled to his or her wages at the time of quitting.

9 50. Within the applicable statute of limitations, the employment of Plaintiff and many
10 other members of the Class ended, i.e. was terminated by quitting or discharge, and the
11 employment of others will be. However, during the relevant time period, Defendants failed, and
12 continue to fail to pay terminated Class Members, without abatement, all wages required to be
13 paid by California Labor Code sections 201 and 202 either at the time of discharge, or within
14 seventy-two (72) hours of their leaving Defendants' employ.

15 51. Defendants' failure to pay Plaintiff and those Class members who are no longer
16 employed by Defendants their wages earned and unpaid at the time of discharge, or within
17 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor
18 Code §§ 201 and 202.

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

23 53. Plaintiff and the Class are entitled to recover from Defendants their additionally
24 accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days
25 maximum pursuant to California Labor Code § 203.

26 54. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff and the
27 Class are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs
28 incurred in this action.

1 **FIFTH CAUSE OF ACTION**

2 **(Against all Defendants for Failure to Provide and Maintain Accurate and**
3 **Compliant Wage Records)**

4 55. Plaintiff incorporates by reference and re-alleges as if fully stated herein
5 paragraphs 1 through 20 in this First Amended Complaint.

6 56. At all material times set forth herein, California Labor Code § 226(a) provides that
7 every employer shall furnish each of his or her employees an accurate itemized wage statement
8 in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours
9 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
10 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
11 on written orders of the employee may be aggregated and shown as one item, (5) net wages
12 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
13 employee and the last four digits of his or her social security number or an employee
14 identification number other than a social security number, (8) the name and address of the legal
15 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
16 the corresponding number of hours worked at each hourly rate by the employee.

17 57. Defendants have intentionally and willfully failed to provide employees with
18 complete and accurate wage statements. The deficiencies include, among other things, the
19 failure to correctly identify the gross wages earned by Plaintiff and the Class, the failure to list
20 the true “total hours worked by the employee,” and the failure to list the true net wages earned.

21 58. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiff
22 and the Class have suffered injury and damage to their statutorily-protected rights.

23 59. Specifically, Plaintiff and the members of the Class have been injured by
24 Defendants’ intentional violation of California Labor Code § 226(a) because they were denied
25 both their legal right to receive, and their protected interest in receiving, accurate, itemized wage
26 statements under California Labor Code § 226(a).

27 60. Calculation of the true wage entitlement for Plaintiff and the Class is difficult and
28 time consuming. As a result of this unlawful burden, Plaintiff and the Class were also injured as

1 a result of having to bring this action to attempt to obtain correct wage information following
2 Defendants' refusal to comply with many of the mandates of California's Labor Code and related
3 laws and regulations.

4 61. Plaintiff and the Class are entitled to recover from Defendants their actual
5 damages caused by Defendants' failure to comply with California Labor Code § 226(a).

6 62. Plaintiff and the Class are also entitled to injunctive relief, as well as an award of
7 attorney's fees and costs to ensure compliance with this section, pursuant to California Labor
8 Code § 226(h).

9 **SIXTH CAUSE OF ACTION**

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

12 63. Plaintiff incorporates by reference and re-alleges as if fully stated herein
13 paragraphs 1 through 20 in this First Amended Complaint.

14 64. Defendants, and each of them, are "persons" as defined under California Business
15 & Professions Code § 17201.

16 65. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
17 unlawful, and harmful to Plaintiff, other Class members, and to the general public. Plaintiff
18 seeks to enforce important rights affecting the public interest within the meaning of Code of Civil
19 Procedure § 1021.5.

20 66. Defendants' activities, as alleged herein, are violations of California law, and
21 constitute unlawful business acts and practices in violation of California Business & Professions
22 Code §§ 17200, *et seq.*

23 67. A violation of California Business & Professions Code §§ 17200, *et seq.* may be
24 predicated on the violation of any state or federal law. All of the acts described herein as
25 violations of, among other things, the California Labor Code, are unlawful and in violation of
26 public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous,
27 and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of
28 California Business & Professions Code §§ 17200, *et seq.*

1 **Failure to Pay Minimum Wages**

2 68. Defendants' failure to pay minimum wages, and other benefits in violation of the
3 California Labor Code constitutes unlawful and/or unfair activity prohibited by California
4 Business & Professions Code §§ 17200, *et seq.*

5 **Failure to Maintain Accurate Records of All Hours Worked**

6 69. Defendants' failure to maintain accurate records of all hours worked in accordance
7 with California Labor Code § 1174.5 and the IWC Wage Orders constitutes unlawful and/or
8 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

9 **Failure to Authorize and Permit Rest Periods**

10 70. Defendants' failure to authorize and permit rest periods in accordance with
11 California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful
12 and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

13 **Failure to Indemnify Necessary Business Expenses**

14 71. Defendants' failure to indemnify employees for necessary business expenses in
15 accordance with California Labor Code § 2802 and the IWC Wage Orders, as alleged above,
16 constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§
17 17200, *et seq.*

18 **Failure to Provide Accurate Itemized Wage Statements**

19 72. Defendants' failure to provide accurate itemized wage statements in accordance
20 with California Labor Code § 226, as alleged above, constitutes unlawful and/or unfair activity
21 prohibited by California Business & Professions Code §§ 17200, *et seq.*

22 73. By and through their unfair, unlawful and/or fraudulent business practices
23 described herein, the Defendants, have obtained valuable property, money and services from
24 Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly
25 situated, of valuable rights and benefits guaranteed by law, all to their detriment.

26 74. Plaintiff and the Class Members suffered monetary injury as a direct result of
27 Defendants' wrongful conduct.

28 75. Plaintiff, individually, and on behalf of members of the putative Class, is entitled

1 to, and do, seek such relief as may be necessary to disgorge money and/or property which the
2 Defendants have wrongfully acquired, or of which Plaintiff and the Class have been deprived, by
3 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and
4 the Class are not obligated to establish individual knowledge of the wrongful practices of
5 Defendants in order to recover restitution.

6 76. Plaintiff, individually, and on behalf of members of the putative class, are further
7 entitled to and do seek a declaration that the above described business practices are unfair,
8 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,
9 from engaging in any of the above-described unfair, unlawful and/or fraudulent business
10 practices in the future.

11 77. Plaintiff, individually, and on behalf of members of the putative class, have no
12 plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members
13 suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business
14 practices. As a result of the unfair, unlawful and/or fraudulent business practices described
15 above, Plaintiff, individually, and on behalf of members of the putative Class, has suffered and
16 will continue to suffer irreparable harm unless the Defendants, and each of them, are restrained
17 from continuing to engage in said unfair, unlawful and/or fraudulent business practices.

18 78. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth
19 herein above, they will continue to avoid paying the appropriate taxes, insurance and other
20 withholdings.

21 79. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff
22 and putative Class Members are entitled to restitution of the wages withheld and retained by
23 Defendants during a period that commences four years prior to the filing of this complaint; a
24 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
25 Class Members; an award of attorneys' fees pursuant to California Code of Civil Procedure §
26 1021.5 and other applicable laws; and an award of costs.

1 **SEVENTH CAUSE OF ACTION**

2 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of**
3 **2004, Cal. Lab. Code § 2698 et seq.)**

4 80. Plaintiff incorporate by reference and re-allege as if fully stated herein
5 paragraphs 1 through 20 in this First Amended Complaint.

6 81. At all times herein mentioned, Defendants were subject to the Labor Code of the
7 State of California and the applicable Industrial Welfare Commission Orders.

8 82. California Labor Code § 2699(a) specifically provides for a private right of action
9 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of
10 law, any provision of this code that provides for a civil penalty to be assessed and collected by
11 the Labor and Workforce Development Agency or any of its departments, divisions,
12 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,
13 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
14 herself and other current or former employees pursuant to the procedures specified in Section
15 2699.3.”

16 83. Plaintiff has exhausted his administrative remedies pursuant to California Labor
17 Code § 2699.3. On August 6, 2021, Plaintiff gave written notice by online filing to the Labor
18 and Workforce Development Agency and by certified mail to Defendants of the specific
19 provisions of the Labor Code that Defendants have violated against Plaintiff and current and
20 former Aggrieved Employees, including the facts and theories to support the violations. At the
21 time of this filing, 65 days has elapsed since Plaintiff provided notice, but the Labor and
22 Workforce Development Agency has not indicated that it intends to investigate Defendants’
23 Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil
24 action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of
25 the Labor Code described in this Complaint. These penalties include, but are not limited to,
26 penalties under California Labor Code §§ 210, 226.3, 558, 1197.1, and 2699(f)(2).

27 84. In addition, Plaintiff seeks penalties for Defendants’ violation of California
28 Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any

1 entity, employing labor who willfully fails to maintain accurate and complete records required by
2 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
3 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee
4 begins and ends each work period. Meal periods, and total hours worked daily shall also be
5 recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
6 keep total hours worked in the payroll period and applicable rates of pay.

7 85. During the time period of employment for Plaintiff and the Aggrieved
8 Employees, Defendants failed to maintain records pursuant to the Labor Code and IWC Orders
9 by failing to maintain accurate records showing when employees begin and end each work
10 period. Defendants' failure to provide and maintain records required by the Labor Code IWC
11 Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand
12 and question the accuracy of their hours worked stated in Defendants' records. Therefore,
13 Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages,
14 all of which resulted in an unjustified economic enrichment to Defendants. As a direct result,
15 Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses
16 related to the use and enjoyment of such wages, lost interest on such wages and expenses and
17 attorney's fees in seeking to compel Defendants to fully perform its obligation under state law,
18 all to their respective damage in amounts according to proof at trial. Because of Defendants'
19 knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and
20 the Aggrieved Employees have also suffered an injury in that they were prevented from knowing,
21 understanding, and disputing the wage payments paid to them.

22 86. Based on the conduct described in this First Amended Complaint, Plaintiff is
23 entitled to an award of civil penalties on behalf of himself, the State of California, and similarly
24 Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is in
25 an amount to be shown according to proof at trial. These penalties are in addition to all other
26 remedies permitted by law.

1 87. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs
2 pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in
3 any action shall be entitled to an award of reasonable attorney's fees and costs."

4 **PRAYER FOR RELIEF**

5 Plaintiff, individually, and on behalf of all others similarly situated only with respect to
6 the class claims, prays for relief and judgment against Defendants, jointly and severally, as
7 follows:

8 Class Certification

- 9 1. That this action be certified as a class action with respect to the First, Second,
10 Third, Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action;
11 2. That Plaintiff be appointed as the representative of the Class; and
12 3. That counsel for Plaintiff be appointed as Class Counsel.

13 As to the First Cause of Action

- 14 4. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
16 minimum wages due;
17 5. For general unpaid wages as may be appropriate;
18 6. For pre-judgment interest on any unpaid compensation commencing from the date
19 such amounts were due;
20 7. For liquidated damages;
21 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
22 California Labor Code § 1194(a); and,
23 9. For such other and further relief as the Court may deem equitable and appropriate.

24 As to the Second Cause of Action

- 25 10. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;
27 11. For unpaid rest period premium wages as may be appropriate;
28

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

13. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and

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

As to the Third Cause of Action

15. That the Court declare, adjudge and decree that Defendants violated Labor Code § 2802 and the IWC Wage Orders;

16. For general unpaid wages and reimbursement of business expenses as may be appropriate;

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

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

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

As to the Fourth Cause of Action

20. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;

21. For statutory wage penalties pursuant to California Labor Code § 203 for former employees who have left Defendants' employ;

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

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

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

As to the Fifth Cause of Action

25. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;

- 1 26. For penalties and actual damages pursuant to California Labor Code § 226(e);
2 27. For injunctive relief to ensure compliance with this section, pursuant to California
3 Labor Code § 226(h);
4 28. For reasonable attorneys' fees and for costs of suit incurred herein; and
5 29. For such other and further relief as the Court may deem equitable and appropriate.

6 As to the Sixth Cause of Action

7 30. That the Court declare, adjudge and decree that Defendants violated California
8 Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked
9 (including minimum wages), failing to authorize and permit rest periods, and failing to maintain
10 accurate records of all hours worked and meal periods, failing to furnish accurate wage
11 statements, and failing to indemnify necessary business expenses;

12 31. For restitution of unpaid wages to Plaintiff and all Class Members and
13 prejudgment interest from the day such amounts were due and payable;

14 32. For the appointment of a receiver to receive, manage and distribute any and all
15 funds disgorged from Defendants and determined to have been wrongfully acquired by
16 Defendants as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

17 33. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
18 California Code of Civil Procedure § 1021.5;

19 34. For injunctive relief to ensure compliance with this section, pursuant to California
20 Business & Professions Code §§ 17200, *et seq.*; and,

21 35. For such other and further relief as the Court may deem equitable and appropriate.

22 As to the Seventh Cause of Action

23 36. That the Court declare, adjudge and decree that Defendants violated the
24 California Labor Code by failing to pay wages for all hours worked (including minimum wages),
25 failing to authorize and permit rest periods, failing to maintain accurate records of all hours
26 worked, failing to indemnify necessary business expenses, failing to pay final wages at
27 termination, and failing to furnish accurate wage statements;

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

1 proof.

2 38. For all civil penalties pursuant to California Labor Code § 2699, et seq., and all
3 other applicable Labor Code provisions;

4 39. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
5 California Labor Code § 2699;

6 40. For such other and further relief as the Court may deem equitable and appropriate.

7 As to all Causes of Action

8 41. For any additional relief that the Court deems just and proper.

9
10 Respectfully submitted,

11 Dated: January 11, 2022

MOON & YANG, APC

12
13 By: 

Kane Moon
Lilit Ter-Astvatsatryan

14 Attorneys for Plaintiff

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16
17 **DEMAND FOR JURY TRIAL**

18 Plaintiff demands a trial by jury as to all causes of action triable by jury.

19
20 Dated: January 11, 2022

MOON & YANG, APC

21
22 By: 

Kane Moon
Lilit Ter-Astvatsatryan

23 Attorneys for Plaintiff
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

On the date indicated below, I served the document described as: **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by sending [] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

Brook J. Carroll
Danielle R. Everson
CLARK* EVERSON LLP
4580 E. Thousand Oaks Blvd. Suite 160
Westlake Village, CA 91362
Tel.: 805-322-4949
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bcarroll@clarkeversonlaw.com

Attorneys for Defendants Raja Enterprises, Inc.,

[✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action. I did not receive, within a reasonable time after the transmission, any electronic Message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this **April 12, 2022** at Los Angeles, California.

Ivette Hernandez
Type or Print Name


Signature