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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

ANDERSON STACY, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

HICKMAN'S EGG RANCH, INC., an Arizona
Corporation; and DOES 1-50, inclusive.

Defendants.

CASE NO.: CVRI2103899

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

- (1) FAILURE TO PAY ALL MINIMUM WAGES;
- (2) FAILURE TO PAY ALL OVERTIME WAGES;
- (3) MEAL PERIOD VIOLATIONS;
- (4) REST PERIOD VIOLATIONS;
- (5) WAGE STATEMENT VIOLATIONS;
- (6) WAITING TIME PENALTIES;
- (7) UNFAIR COMPETITION; and
- (8) PAGA PENALTIES

DEMAND FOR JURY TRIAL

1 Plaintiff Anderson Stacy (“Plaintiff”) on behalf of himself, and all other similarly situated
2 employees, alleges and complains of defendants Hickman’s Egg Ranch, Inc. and DOES 1 to 50
3 (collectively, “Defendants”) and each of them, as follows:

4 **INTRODUCTION**

5 1. Defendant Hickman’s Egg Ranch, Inc. is an agribusiness producing, packaging, and
6 distributing eggs in California and across the United States. Defendants operate a distribution
7 warehouse in Riverside, California. Plaintiff brings this class action against Defendants for alleged
8 violations of the California Labor Code and Business and Professions Code.

9 2. As set forth below, Plaintiff alleges that Defendants had a uniform payroll
10 practice/policy that unlawfully failed to account for time Plaintiff and other non-exempt employees
11 spent lining up for and going through COVID-19 screening prior to clocking in for shifts. As a result,
12 Plaintiff and other similarly situated employees were not paid for all hours worked. Plaintiff further
13 alleges that Defendants failed to pay all overtime compensation, to himself and all others similarly
14 situated, at the legal rate by failing to include all compensation in calculating the regular rate used to
15 calculate overtime compensation. Plaintiff further alleges that Defendants’ meal and rest period
16 policies and practices failed to provide him and all other similarly situated employees with
17 compliant/timely meal and rest periods, or premium wages at the appropriate legal rate in lieu thereof.
18 Additionally, Plaintiff alleges that Defendants failed to provide non-exempt employees with accurate
19 written itemized wage statements and failed to timely pay all final wages upon separation of
20 employment. Based on these alleged Labor Code violations, Plaintiff now brings this class and PAGA
21 representative action to recover unpaid wages, restitution, penalties, and other related relief on behalf
22 of himself and all others similarly situated.

23 **JURISDICTION AND VENUE**

24 3. Plaintiff, on behalf of himself and all others similarly situated employees hereby brings
25 this class action for recovery of unpaid wages and penalties under California Labor Code §§ 201-
26 203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 1194, 1197.1, 1199, 2698, *et seq.*, and
27 applicable Industrial Welfare Commission Wage Orders (“Wage Orders”), in addition to seeking
28 declaratory relief and restitution pursuant to California Business and Professions Code § 17200, *et*.

1 *seq.* This class action is brought pursuant to California Code of Civil Procedure § 382.

2 4. This Court has jurisdiction over Defendants' violations of the California Labor Code
3 and applicable Wage Orders because the amount in controversy exceeds this Court's jurisdictional
4 minimum.

5 5. Venue is proper in this judicial district pursuant to California Code of Civil Procedure
6 §§ 395(a) and 395.5, as most of the acts and omissions complained of herein occurred in the City of
7 Riverside, County of Riverside. Defendants own, maintain offices, transact business, have an agent
8 or agents within the County of Riverside, and/or otherwise are found within the County of Riverside,
9 and Defendants are within the jurisdiction of this Court for purposes of service of process.

10 **PARTIES**

11 6. At all relevant times herein, Plaintiff, who is over the age of 18, was and currently is a
12 California resident residing in the State of California. Defendants employed Plaintiff as a non-exempt
13 employee in Riverside, California in the County of Riverside.

14 7. Plaintiff is informed and believes and thereon alleges that defendant Hickman's Egg
15 Ranch, Inc. is an Arizona corporation authorized to and doing business in Riverside County,
16 California, and is and/or was the legal employer of Plaintiff and the Class Members during the
17 applicable statutory periods. Plaintiff was, and is, a victim of Defendants' policies and/or practices
18 complained of herein and has been deprived of the rights guaranteed to him by California Labor Code
19 §§ 201-203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 1194, 1197.1, 1199, and California
20 Business and Professions Code § 17200 *et seq.*, and applicable Wage Orders.

21 8. Plaintiff is informed and believes, and based thereon alleges, that during the four years
22 preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to
23 do) business in the State of California, County of Riverside. Defendants operate a facility at 797
24 Palmyrita Avenue in Riverside, California.

25 9. Plaintiff does not know the true names or capacities, whether individual, partner, or
26 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
27 Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
28 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and

1 believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or
2 corporate, were responsible in some manner for the acts and omissions alleged herein, and
3 proximately caused Plaintiff and the Classes to be subject to the unlawful employment practices
4 alleged herein.

5 10. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
6 herein, Defendants were and are the employers of Plaintiff and all members of the Classes. At all
7 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
8 alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of
9 them, were the agents, servants, and employees of each and every one of the other Defendants, as
10 well as the agents of all Defendants, and at all times herein mentioned were acting within the course
11 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
12 and/or otherwise ratified each and every one of the acts or omissions complained of herein.

13 11. At all times mentioned herein, Defendants, and each of them, were members of and
14 engaged in a joint venture, partnership, and common enterprise, and acting within the course and
15 scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff
16 alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the
17 Classes.

18 **COMMON FACTUAL ALLEGATIONS**

19 12. Defendants are an agribusiness packaging and distributing eggs from their warehouse
20 in Riverside, California. Defendants employed Plaintiff as a non-exempt Lead Warehouse Loader
21 employee, from his hire date on or about October 2017 until his termination on or about July 9, 2021,
22 at their Riverside warehouse. Plaintiff and other non-exempt employees were responsible for all
23 aspects of Defendants' egg packing and distribution business, and other services provided by
24 Defendants throughout California.

25 13. At all relevant times, Plaintiff and others similarly situated were required to take a
26 temperature check prior to clocking in. Defendants used and continues to use a mandatory policy and
27 procedure that required Plaintiff and other non-exempt employees to clock in at the beginning of their
28 work shift and clock out at the end of their work shift. Yet, Plaintiff maintained a policy and procedure

1 that failed to compensate Plaintiff and other non-exempt employees the legal minimum wage for the
2 time it took non-exempt employees to walk to and from an office adjacent to the main warehouse to
3 have their temperature checked by a supervisor prior to clocking in. Defendants' policies and
4 procedures resulted in a failure to pay legal minimum wages to Plaintiff and other non-exempt
5 employees in violation of Labor Code §§ 1194, 1197, and applicable Wage Orders. Defendants'
6 policies and procedures also resulted in a failure to pay overtime wages to Plaintiff and other non-
7 exempt employees in violation of Labor Code §§ 510, 1194, 1197, and applicable Wage Orders.

8 14. Consequently, Plaintiff and other non-exempt employees were not properly paid for all
9 hours worked, including overtime hours, in violation of Cal. Labor Code §204, 510, 1194, 1197.1,
10 1199, and applicable Wage Orders. Additionally, Plaintiff and other non-exempt employees similarly
11 situated were not properly paid at the correct overtime rate for hours worked in excess of eight hours
12 per shift.

13 15. As a result of the COVID-19 screening policy, Plaintiff and other non-exempt
14 employees were uniformly underpaid for all hours worked, including all minimum and overtime
15 wages, in violation of Labor Code §§ 204, 510, 1194.2, 1197.1, 1199, and applicable Wage Orders.
16 Accordingly, Plaintiff and other non-exempt employees are entitled to recover liquidated damages
17 for violations of Labor Code § 1197.1 and penalties under Labor Code § 1199.

18 16. Moreover, at all relevant times, Plaintiff and other non-exempt employees were not
19 properly paid at the correct overtime rate for all hours worked in excess of eight hours per workday
20 or 40 hours per workweek. When Plaintiff and the other non-exempt employees worked overtime
21 hours, Defendants failed to include all forms of compensation, including but not limited to non-
22 discretionary bonus payments and other pay when calculating the regular rate of pay used in overtime
23 calculations. For instance, although Defendants consistently and regularly paid non-exempt
24 employees non-discretionary attendance bonuses, Defendants omitted the bonus payments when
25 calculating the regular rate of pay used in overtime calculations and when paying overtime to Plaintiff
26 and the other non-exempt employees.

27 17. Under the California Labor Code (as well as the FLSA), courts have held that regularly
28 paid non-discretionary incentive pay/bonuses must be included in determining an employee's

1 “regular rate of pay” for purposes of calculating overtime. See *Haber v. The Americana Corp.* 378 F.
2 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency bonuses must be included in
3 calculating the “regular rate”]; *Wang v. Chinese Daily News, Inc.* 435 F. Supp. 2d 1042, 1055-1057
4 (C.D. Cal. 2006) [granting summary judgement to Plaintiffs under California and federal law on the
5 grounds, that defendant improperly calculated overtime by excluding annual bonuses paid to
6 employees from the “regular rate of compensation”].

7 18. Labor Code § 510 requires an employer to compensate an employee who works more
8 than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours
9 worked on the seventh consecutive day no less than one and one-half times the regular rate of pay for
10 an employee. In addition, Labor Code § 510 obligates employers to compensate employees at no less
11 than twice the regular rate of pay when an employee works more than twelve (12) hours in a day or
12 more than eight (8) hours on the seventh consecutive day of work.

13 19. Pursuant to Section 3 of the applicable Wage Orders, employees shall not be employed
14 more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee
15 receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over
16 40 hours in the workweek. By their policy of requiring Plaintiff and the other non-exempt employees
17 to work in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without
18 compensating them at the rate of one-half (1 1/2) their regular rate of pay, Defendants willfully
19 violated the provisions of Labor Code §§ 510 and applicable Wage Orders.

20 20. As a result of Defendants’ failure to include all forms of compensation in calculating
21 the regular rate as set forth above, Defendants failed to compensate Plaintiff and other non-exempt
22 employees for all overtime wages at the proper rates. Accordingly, Plaintiff and other non-exempt
23 employees are entitled to recover liquidated damages for violations of Labor Code § 1197.1.

24 21. Furthermore, Plaintiff and other non-exempt employees were denied complaint and
25 timely 30-minute off-duty meal periods as mandated by California law. Plaintiff and other non-
26 exempt employees were often unable to take timely and uninterrupted 30-minute first meal periods
27 before the end of the fifth hour of work. Further, Defendants provided Plaintiff and other non-exempt
28 employees exactly 30 minutes for meal periods, but the 30-minute period was inclusive of the time it

1 took to walk to the break area, and/or leave the premises, and also the time it took to wait in line to
2 clock back in at the end of meal periods. Plaintiff and other non-exempt employees were often
3 required to report back to the work premises before taking the full 30-minutes in order to be clocked
4 in by the end of the 30-minute period. As a result, Plaintiff and other non-exempt employees were
5 routinely unable to take 30-minute first meal periods before the end of the fifth hour of work. The
6 practical effect of Defendants' clock-in practices/procedures often resulted in Plaintiff and other non-
7 exempt employees staying on the premises and otherwise not exercising their right to leave the
8 facility, as doing so would further shorten the length of their meal periods. On top of that, Plaintiff
9 and other non-exempt employees would have their meal periods interrupted by supervisors
10 demanding that they return to work. As such, Plaintiff and other non-exempt employees were
11 regularly not provided with full 30-minute meal periods as required by California law.

12 22. Further, at all relevant times, when Plaintiff and other non-exempt employees worked
13 in excess of 10.0 hours in a shift, they were not allowed and permitted to take a mandated and timely
14 second meal period before the end of the tenth hour of work in violation of the Labor Code and
15 applicable Wage Orders.

16 23. Additionally, Defendants failed to adequately pay Plaintiff and other non-exempt
17 employees' payment for meal period premiums for non-complaint meal periods in compliance with
18 *Ferra v. Loews Hollywood Hotel, LLC*. In *Ferra*, the California Supreme Court made clear that
19 payment of meal and rest period premiums must include more than just the employee's base hourly
20 rate. The court's holding establishes that the amount to be paid for meal/rest premiums is not the
21 employees' base hourly rate but their "regular rate of pay," which is used to calculate overtime pay,
22 which includes other forms of compensation, including, but not limited to, non-discretionary bonuses
23 and shift pay, and is often higher than the base hourly rate. Throughout Plaintiff's employment,
24 Defendants failed to adequately pay missed meal and rest period premiums at the appropriate regular
25 rate of pay.

26 24. Based on the foregoing, Plaintiff seeks to recover on behalf of himself and other non-
27 exempt employees' meal period premiums and penalties. Consequently, Defendants has violated
28 Labor Code §§ 226.7, 512, 516 and applicable Wage Orders.

1 25. Moreover, at all relevant times, Defendants failed and continue to fail to authorize and
2 permit Plaintiff and other non-exempt employees from taking legally complaint rest periods as a result
3 of its unlawful rest period policy/practices that requires non-exempt employees to remain on premises
4 during rest periods. Further, Plaintiff and other non-exempt employees were also often unable to take
5 legally complaint rest periods due to the demands of the job. As a result, Plaintiff and other non-
6 exempt employees were and are routinely unable to take (10) minute duty free rest periods for every
7 major fraction of four hours worked. This includes a second rest period for shifts in excess of six
8 hours, and a third rest period for shifts in excess of 10 hours in a workday.

9 26. By requiring non-exempt employees to remain on the Company premises during
10 breaks, non-exempt employees are not relieved of all duties during rest periods. See *Augustus v. ABM*
11 *Security Services, Inc.* (2016) 2 Cal. 5th 257, 269 [concluding that “during rest periods employers
12 must relieve employees of all duties and relinquish control over how employees spend their time.”].
13 In *Augustus*, the court expressly rejected the employers’ assertion that it could provide an on-duty
14 rest period to employees who worked as security guards and further explained “that employers [must]
15 relinquish any control over how employees spend their break time and relieve their employees of all
16 duties.” *Id.* at 273.

17 27. Each time Plaintiff and other non-exempt employees were unable to take a complaint
18 rest periods, Defendants failed and continues to fail to adequately pay rest period premium payments
19 at the “regular rate of pay” as required by Labor Code § 226.7 and *Ferra v. Loews Hollywood Hotel,*
20 *LLC* as detailed above.

21 28. As a result of Defendants’ unlawful rest period policies and practices, Plaintiff seeks
22 to recover on behalf of himself and all non-exempt employees rest period premiums and penalties.
23 Consequently, Defendants has violated Labor Code §§ 204, 210, 226.7, 510, 512 and applicable Wage
24 Orders.

25 29. As a result of Defendants’ failure to pay Plaintiff and other non-exempt employees all
26 minimum and overtime wages, and failure to provide all statutorily-mandated meal and rest periods,
27 or proper compensation in lieu thereof, Defendants also intentionally failed and continues to fail to
28 furnish Plaintiff and other non-exempt employees with accurate itemized wage statements that reflect

1 the correct amount of gross wages earned, net wages earned and premium wages due for missed meal
2 and rest periods as required by Labor Code § 226(a)(1),(5),(9).

3 30. As a further result of Defendants' Labor Code violations stated herein above,
4 Defendants also failed to pay Plaintiff and other non-exempt employees all wages owed at their time
5 of separation from employment in violation of Labor Code §§ 201-203. Pursuant to Labor Code §§
6 201-202, an employer must provide non-exempt employees wages at the time of discharge or within
7 up to seventy-two (72) hours of their resignation. Labor Code § 203 provides "if an employer willfully
8 fails to pay ... any wages of an employee who is discharged or who quits, the wages of the employee
9 shall continue as a penalty ..." for up to 30 days.

10 CLASS ACTION ALLEGATIONS

11 31. Plaintiff brings this action on behalf of himself and the following Classes pursuant to
12 § 382 of the Code of Civil Procedure:

- 13 (1) All non-exempt employees who work or worked for Defendants in
14 California, during the four years immediately preceding the filing of the
15 Complaint through the date of trial. ("Class")
16 (2) All non-exempt employees who worked for Defendants in California and
17 who worked overtime hours during at least one shift and earned a non-
18 discretionary bonus payment and /or other non-hourly pay, during the four
19 years immediately preceding the filing of the Complaint through the date of
20 trial. ("Overtime Subclass")
21 (3) All non-exempt employees who worked for Defendants in California, and
22 who have separated their employment with Defendants during one year
23 immediately preceding the filing of the Complaint through the date of trial.
24 ("Waiting Time Subclass")
25 (collectively "the Classes")

26 32. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
27 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
28 unknown to Plaintiff at this time; however, it is estimated that the Classes consist of at least one
hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of
Defendants' employment and payroll records.

1 33. **Common Questions of Law and Fact Predominate/Well Defined Community of**

2 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated
3 employees, which predominate over questions affecting only individual members including, without
4 limitation to:

5 1. Whether Defendants' Covid-19 screening and timekeeping policies/practices resulted in
6 a failure to pay for all hours worked to the members of the Classes;

7 2. Whether Defendants' payroll policies/practices resulted in a failure to pay overtime at
8 the appropriate premium rate resulted to members of the Overtime Subclass;

9 3. Whether Defendants provided legally compliant meal and rest periods or proper
10 compensation in lieu thereof to members of the Classes;

11 4. Whether Defendants furnished legally compliant wage statements to members of the
12 Classes pursuant to Labor Code § 226(a); and

13 5. Whether the timing and amount of payment of final wages to members of the Waiting
14 Time Subclass at the time of separation from employment were unlawful.

15 34. **Predominance of Common Questions:** Common questions of law and fact
16 predominate over questions that affect only individual members of the Classes. The common
17 questions of law set forth above are numerous and substantial and stem from Defendants' policies
18 and/or practices applicable to each individual class member, such as Defendants' policy/practice of
19 failing to pay for time spent pre-shift undergoing COVID screening procedures under the control of
20 Defendants, Defendants' policy/practice of failing to account for non-discretionary bonus and/or
21 other payments in calculating employees' regular rate for overtime purposes, Defendants' uniform
22 policy of failing to provide complaint meal and rest periods or adequate compensation in lieu thereof,
23 and Defendants' resulting failure to provide accurate itemized wage statements, and to pay for all
24 wages due upon separation of employment. As such, the common questions predominate over
25 individual questions concerning each individual class member's showing as to his or her eligibility
26 for recovery or as to the amount of his or her damages.

27 35. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
28 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)

1 of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein,
2 Plaintiff, like the members of the Classes was deprived of minimum and overtime wages, was
3 deprived of meal and rest period premium wages, was subject to Defendants' uniform meal and rest
4 period policies/practices, was not reimbursed for required work expenses, was not provided accurate
5 itemized wage statements, and was not paid all wages owed at the time of his separation of
6 employment.

7 36. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
8 represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
9 attorneys are ready, willing and able to fully and adequately represent the members of the Classes.
10 Plaintiff's attorneys have prosecuted and are actively litigating several wage-and-hour class actions
11 in state and federal courts and are committed to vigorously prosecuting this action on behalf of the
12 members of the Classes.

13 37. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
14 important public interest in establishing minimum working conditions and standards in California.
15 These laws and labor standards protect the average working employee from exploitation by
16 employers who have the responsibility to follow the laws and who may seek to take advantage of
17 superior economic and bargaining power in setting onerous terms and conditions of employment. The
18 nature of this action and the format of laws available to Plaintiff and members of the Classes make
19 the class action format a particularly efficient and appropriate procedure to redress the violations
20 alleged herein. If each employee were required to file an individual lawsuit, Defendants would
21 necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the
22 limited resources of each individual plaintiff with their vastly superior financial and legal resources.

23 38. Moreover, requiring each member of the Classes to pursue an individual remedy would
24 also discourage the assertion of lawful claims by employees who would be disinclined to file an action
25 against their former and/or current employer for real and justifiable fear of retaliation and permanent
26 damages to their careers at subsequent employment. Further, the prosecution of separate actions by
27 the individual class members, even if possible, would create a substantial risk of inconsistent or
28 varying verdicts or adjudications with respect to the individual class members against Defendants

1 herein; and which would establish potentially incompatible standards of conduct for Defendants;
2 and/or legal determinations with respect to individual class members which would, as a practical
3 matter, be dispositive of the interest of the other class members not parties to adjudications or which
4 would substantially impair or impede the ability of the class members to protect their interests.
5 Further, the claims of the individual members of the class are not sufficiently large to warrant
6 vigorous individual prosecution considering all of the concomitant costs and expenses attending
7 thereto. As such, the Classes identified in Paragraph 31 are maintainable as Classes under § 382 of
8 the Code of Civil Procedure.

9 **FIRST CAUSE OF ACTION**

10 **MINIMUM WAGE VIOLATIONS**

11 **(AGAINST ALL DEFENDANTS)**

12 39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 40. Section 4 of the applicable Wage Orders and California Labor Code §§ 1197 and
14 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts
15 set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been
16 paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance
17 together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to
18 the unpaid wages and interest accrued thereon.

19 41. At all relevant times herein, Defendants failed to conform their pay practices to the
20 requirements of the law. This unlawful conduct includes but is not limited to Defendants' uniform
21 and unlawful practice of failing to pay for all off-the clock work, which resulted in these individuals
22 not being paid for all hours actually worked. Accordingly, Plaintiff and members of the Classes were
23 not compensated for all hours worked including, but not limited to, all hours they were subject to the
24 control of Defendants and/or suffered or permitted to work under the California Labor Code and
25 applicable Wage Orders.

26 42. Labor Code § 1198 makes unlawful the employment of an employee under conditions
27 that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer
28 who has failed to pay its employees the legal minimum wage is liable to pay those employees the

1 unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages
2 due and interest thereon.

3 43. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
4 Plaintiff and the Classes have sustained economic damages, including but not limited to unpaid wages
5 and lost interest, in an amount to be established at trial, and they are entitled to recover economic and
6 statutory damages and penalties and other appropriate relief as a result of Defendants' violations of
7 the California Labor Code and applicable Wage Orders.

8 44. Defendants' practice and uniform administration of corporate policy regarding illegal
9 employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members
10 of the Classes in a civil action for the unpaid amount of minimum wages, liquidated damages,
11 including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor
12 Code §§ 204, 558, 1194 *et seq.*, 1197, 1198, and Code of Civil Procedure § 1021.5.

13 **SECOND CAUSE OF ACTION**

14 **FAILURE TO PAY ALL OVERTIME WAGES**

15 **(AGAINST ALL DEFENDANTS)**

16 45. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

17 46. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and
18 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours
19 worked and provide a private right of action for the failure to pay all overtime compensation for
20 overtime work performed.

21 47. At all times relevant herein, Defendants were required to properly pay Plaintiff and
22 members of the Classes and Overtime Subclass for all overtime hours worked pursuant to California
23 Labor Code § 1194 and the applicable Wage Orders.

24 48. Section 3 of the applicable Wage Order requires an employer to pay an employee "one
25 and one-half (1 1/2) times the employee's regular rate of pay" for work in excess of 8 hours per
26 workday and/or in excess of 40 hours of work in the workweek. The same section also requires an
27 employer to pay an employee double the employee's regular rate of pay for work in excess of twelve
28 hours each workday and/or for work in excess of 8 hours on the seventh consecutive day of work in

1 the workweek. Defendants caused Plaintiff to work overtime and hours but did not compensate
2 Plaintiff or members of the Classes at one and one-half times their regular rate of pay for such hours.

3 49. Defendants failed to conform their pay practices to the requirements of the law. This
4 unlawful conduct includes but is not limited to Defendants' uniform and unlawful policy/practice of
5 (1) failing to pay for all off the clock pre-shift time spent on temperature screening, and (2) failing to
6 account for non-discretionary bonuses and other pay in calculating the regular rate for calculating
7 members of the Classes and Overtime Subclass overtime rate which resulted in these individuals not
8 being paid all overtime wages owed.

9 50. The foregoing policies and practices are unlawful and create entitlement to recovery by
10 Plaintiff and the members of the Classes and Overtime Subclass in a civil action for the unpaid amount
11 of overtime wages, including interest thereon, statutory penalties, attorney's fees, and costs of suit
12 according to Labor Code §§ 204, 210, 510, 1194, and 1198, the applicable Wage Orders, and Code
13 of Civil Procedure § 1021.5.

14 **THIRD CAUSE OF ACTION**

15 **MEAL PERIOD VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

17 51. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

18 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in
19 their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff
20 and members of the Classes, with all required meal periods in accordance with the mandates of the
21 California Labor Code and applicable Wage Orders, for the reasons set forth in the Common
22 Allegations section of this Complaint.

23 53. As a result, Defendants are responsible for paying premium compensation for meal
24 period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the
25 applicable Wage Orders, Labor Code §§ 226.7, 512, and Civil Code §§ 3287(b) and 3289.

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1 **FOURTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

4 54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 55. Section 12 of the applicable Wage Orders and Labor Code §§ 226.7 and 516 establish
6 the right of non-exempt employees to be provided with a rest period of at least ten (10) minutes for
7 each four (4) hour period worked, or major fraction thereof.

8 56. Due to their unlawful rest period policy and practices, Defendants did not authorize
9 and permit Plaintiff and members of the Classes to take any rest periods to which they were legally
10 entitled. Despite Defendants' violations, Defendants have not paid an additional hour of pay at the
11 "regular rate of pay" to Plaintiff and members of the Classes at their respective regular rates of pay
12 for each violation, in accordance with California Labor Code § 226.7.

13 57. The foregoing violations create an entitlement to recovery by Plaintiff and members of
14 the Classes in a civil action for the unpaid amount of rest period premiums owing, including interest
15 thereon, statutory penalties, and costs of suit pursuant to the applicable Wage Orders, Labor Code §§
16 226.7 and 516, and Civil Code §§ 3287(b) and 3289.

17 **FIFTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

19 **(AGAINST ALL DEFENDANTS)**

20 58. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 59. Labor Code 226(a) states in pertinent part the following:

22 "(a) An employer, semimonthly or at the time of each payment of wages, shall
23 furnish to his or her employee, either as a detachable part of the check, draft, or
24 voucher paying the employee's wages, or separately if wages are paid by personal
25 check or cash, an accurate itemized statement in writing showing (1) gross wages
26 earned, (2) total hours worked by the employee, except as provided in subdivision
27 (j), (3) the number of piece-rate units earned and any applicable piece rate if the
28 employee is paid on a piece-rate basis, (4) all deductions, provided that all
deductions made on written orders of the employee may be aggregated and shown
as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
employee is paid, (7) the name of the employee and only the last four digits of his

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

4 60. As set forth above, during the Class Period, Defendants issued and continues to issue
5 wage statements to its employees including Plaintiff and members of the Wage Statement Penalty
6 Subclass, which are inadequate under Labor Code Section 226(a).

7 61. As a result of Defendants failure to pay Plaintiff and the Classes for all overtime wages
8 at the appropriate legal rate, and missed meal and rest period premiums, Defendants failed to include
9 required information on Plaintiff and the Classes’ wage statements, including, but not limited to, the
10 gross wages earned, the net wages earned in violation of Labor Code section 226a.

11 62. Defendants’ failure to comply with section 226(a) of the Labor Code was knowing and
12 intentional.

13 63. As a result of Defendants’ issuance of inaccurate itemized wage statements to Plaintiff
14 and members of the Classes in violation of section 226(a) of the California Labor Code, Plaintiff and
15 members of the Classes are each entitled to recover an initial penalty of \$50, and subsequent penalties
16 of \$100, up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiff and per every
17 member of the Classes from Defendants pursuant to section 226(e) of the Labor Code, costs, and
18 reasonable attorneys’ fees.

19 **SIXTH CAUSE OF ACTION**

20 **WAITING TIME PENALTIES**

21 **(AGAINST ALL DEFENDANTS)**

22 64. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 65. The actionable period for this cause of action is three years prior to the filing of this
24 Complaint through the present, and on-going until the violation is corrected or the class is certified.

25 66. Labor Code §§ 201 and 202 require Defendants to pay all compensation due and owing
26 to Plaintiff and the Waiting Time Class during the actionable period for this cause of action at or
27 around the time that their employment is or was terminated or ended.

1 67. Labor Code § 203 provides that if an employer willfully fails to pay compensation
2 promptly upon discharge or resignation, as required by Labor Code sections 201 and 202, then the
3 employer is liable for penalties in the form of continued compensation up to thirty (30) workdays.

4 68. Defendants willfully failed to pay Plaintiff and the Waiting Time Subclass for all hours
5 worked, including all minimum and overtime wages, and their meal and rest period premiums at the
6 “regular rate of pay”, prior to or upon termination or separation from employment with Defendants
7 as required by Labor Code §§ 201 and 202.

8 69. As a result, Defendants are liable to Plaintiff and the Waiting Time Subclass for waiting
9 time penalties amounting to thirty (30) days wages for Plaintiff and the Waiting Time Subclass
10 pursuant to Labor Code § 203. *See, e.g., DLSE Manual, 4.3.4 (Failure to pay any sort of wages due*
11 *upon termination entitles an employee to recover waiting time penalties).*

12 **SEVENTH CAUSE OF ACTION**

13 **UNFAIR COMPETITION**

14 **(AGAINST ALL DEFENDANTS)**

15 70. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

16 71. Defendants have engaged and continue to engage in unfair and/or unlawful business
17 practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by
18 failing to pay for all hours worked, and overtime wages at the legal rate, by failing to provide all
19 legally required meal and rest periods or pay premium payments at the regular rate of pay in lieu
20 thereof, by failing to provide accurate wage statements, and by failing to pay all earned wages at the
21 time of separation from employment.

22 72. Defendants’ utilization of these unfair and/or unlawful business practices deprived
23 Plaintiff and continues to deprive members of the Classes of compensation to which they are legally
24 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
25 Defendants’ competitors who have been and/or are currently employing workers and attempting to
26 do so in honest compliance with applicable wage and hour laws.

27 73. Because Plaintiff is a victim of Defendants’ unfair and/or unlawful conduct alleged
28 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of

monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

74. The acts complained of herein occurred within the last four years immediately preceding the filing of the Complaint in this action.

75. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current hourly non-exempt employees and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

EIGHT CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(Labor Code § 2698 *et seq.*)

(AGAINST ALL DEFENDANTS)

76. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

77. Defendants have committed several Labor Code violations against Plaintiff and other non-exempt employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other non-exempt employees, bring this representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly non-exempt employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided based on the following Labor Code violations:

a. Failing to pay Plaintiff and other non-exempt employees for all hours worked, including all minimum and overtime wages in violation of Labor Code §§ 204, 210, 510, 1194, 1197, 1198, and 1182.12;

b. Failing to provide Plaintiff and other non-exempt employees with all of their statutorily mandated meal periods or compensation at the "regular rate of pay" in lieu thereof in violation of Labor Code §§ 204, 510, 558, 1194 and 1198;

1 c. Failing to authorize and permit Plaintiff and other non-exempt employees with all of
2 their statutorily mandated rest periods or compensation at the “regular rate of pay” in lieu thereof in
3 violation of Labor Code §§ 226.7, and 516;

4 d. Failing to timely compensate Plaintiff and other non-exempt employees with all
5 earnings at their separation of employment in violation of Labor Code §§ 201-203.

6 e. Failing to furnish Plaintiffs and other non-exempt employees with complete, accurate,
7 itemized wage statements in violations of Labor Code § 226(a); and

8 78. On or about August 6, 2021, Plaintiffs notified Defendant Hickman’s Egg Ranch, Inc.
9 via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its
10 website of Defendants’ violations of the California Labor Code § 2698 *et seq.*, with respect to
11 violations of the California Labor Code identified in Paragraph 77(a)-(e). Now that sixty-five days
12 have passed from Plaintiff notifying Hickman’s Egg Ranch, Inc. and the LWDA of these violations,
13 Plaintiff will have exhausted their administrative requirements for bringing a claim under the Private
14 Attorneys General Act with respect to these violations.

15 79. Plaintiff was compelled to retain the services of counsel to file this court action to
16 protect their interests and the interests of other non-exempt employees, and to assess and collect the
17 civil penalties owed by Defendants. Plaintiff has hereby incurred attorneys’ fees and costs, which
18 they are entitled to receive under California Labor Code § 2699.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiff prays for judgment for himself and for all others on whose behalf
21 this suit is brought against Defendants, as follows:

- 22 1. For an order certifying the proposed Classes;
- 23 2. For an order appointing Plaintiff as representative of the Classes;
- 24 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 25 4. Upon the First Cause of Action, for compensatory, consequential, general and special
26 damages according to proof pursuant to Labor Code §§ 204, 210, 510, and 1194;
- 27 5. Upon the Second Cause of Action, for compensatory, consequential, general and
28 special damages according to proof pursuant to Labor Code §§ 204, 210, 510, 1194, and 1198;

1 6. Upon the Third Cause of Action, for compensatory, consequential, general and special
2 damages according to proof pursuant to Labor Code §§ 226.7 and 512;

3 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
4 special damages according to proof pursuant to Labor Code §§ 226.7 and 516;

5 8. Upon the Fifth Cause of Action, penalties pursuant to Labor Code § 226(a), and
6 reasonable costs and attorneys' fees;

7 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor
8 Code §§ 201-203.

9 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
10 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
11 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

12 11. Upon the Eight Cause of Action, for civil penalties due to Plaintiff, other non-exempt
13 aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699,
14 including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each subsequent
15 violation per employee per pay period for those violations of the Labor Code for which no civil
16 penalty is specifically provided;

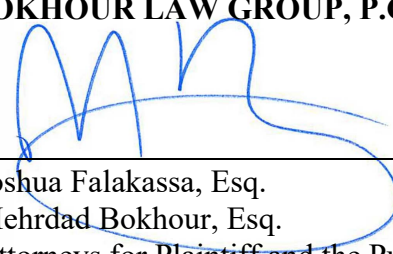
17 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
18 § 218.6 and Civil Code §§ 3287 and 3289;

19 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
20 218.5, 226, and Code of Civil Procedure § 1021.5; and

21 14. For such other relief that the Court may deem just and proper.

22 Dated: January 31, 2022

FALAKSSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

23
24
25 By: 

26 Joshua Falakassa, Esq.
27 Mehrdad Bokhour, Esq.
28 Attorneys for Plaintiff and the Putative Classes

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, California 90067.

On March 10, 2022, I served the following document(s) described as **FIRST AMENDED CLASS AND PAGA ACTION COMPLAINT** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

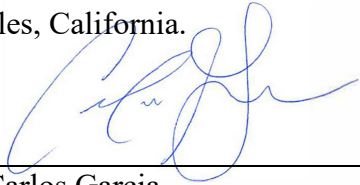
Ian B. Wieland, Esq.
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david@sw2law.com
SAGASER, WATKINS & WIELAND, PC
5260 N. Palm Avenue, Suite 400
Fresno, California 93704

Counsel for defendant Hickman’s Egg Ranch, Inc.

BY ELECTRONIC SERVICE: I transmitted the above-referenced document(s) via electronic service provider First Legal to the person(s) identified above at the email address(es) indicated and did not, within a reasonable time after transmission, receive any message or communication indicating that delivery failed or that any other error had occurred which would delay or caused failure in transmission and delivery of the document and/or any attachments thereto.

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

Executed on March 10, 2022, at Los Angeles, California.



Carlos Garcia