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*Attorneys for Plaintiff LUIS EDUARDO GOMEZ
 and Class MEMBERS*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

LUIS EDUARDO GOMEZ, an individual, on
 behalf of himself and all other similarly
 situated non-exempt former and current
 employees;

Plaintiffs,

vs.

MOORE FOUNDATIONS, INC., a California
 Corporation; and DOES 1 through 10,
 inclusive,

Defendants.

Case No.: **23STCV21212**

CLASS ACTION:

COMPLAINT FOR DAMAGES:

- 1. FAILURE TO PAY OVERTIME WAGES[Cal. Lab. Code §510];**
- 2. FAILURE TO PROVIDE MEAL BREAKS[Cal. Lab. Code §226.7];**
- 3. FAILURE TO PROVIDE REST BREAKS[Cal. Lab. Code §226.7];**
- 4. FAILURE TO PROVIDE RECOVERY PERIOD BREAKS [Cal. Lab. Code §226.7]**
- 5. WAITING TIME PENALTIES [Cal. Labor Code §§ 201-203];**
- 6. FAILURE TO PAY ALL HOURS WORKED [Cal. Labor Code§ 204];**
- 7. FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS [Cal. Labor Code § 226];**
- 8. FAILURE TO INDEMNIFY EMPLOYEES FOR NECESSARY COSTS INCURRED [Cal. Labor Code §2802, et seq]**
- 9. VIOLATION OF CAL. BUS. & PROF. CODE §17200, et seq.;**

COMES NOW Plaintiff LUIS EDUARDO GOMEZ (“Gomez” or “Plaintiff”), an individual over the age of 18, bringing this challenge to Defendant’s lucrative, repressive and unlawful business practices on behalf of himself, the general public, and a class of all others similarly situated, for causes of action against Defendant MOORE FOUNDATIONS, INC. (hereinafter referred to as “MFI” or “Defendant”), and DOES 1 through 10, inclusive (hereinafter collectively referred to as “Defendants”). Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. Some or all of the acts complained of herein occurred in Los Angeles County, as Defendants employed the named Plaintiff and numerous other members of the Plaintiff Class in the County of Los Angeles at some or all times relevant to the facts complained of herein.

2. Further, This Court has Jurisdiction over this action because this is a class action, and the claims of the individual Plaintiff(s) and putative class members are each not in excess of \$75,000.00.

3. The amount in controversy in this matter exceeds the sum of \$25,000.00, exclusive of interest and costs.

4. Jurisdiction and venue are proper in this Court because not only did some or all of the claims alleged herein arise in Los Angeles County, but also because some or all of the Defendants were and/or are residents of Los Angeles County, and/or are doing or did business in Los Angeles County, and/or their principal place of business is in Los Angeles County, at 7046 Darby Ave., Reseda, CA 91335, at times relevant herein.

NATURE OF THE ACTION

5. This is a wage and hour violation matter being asserted on a class-wide basis on behalf of Plaintiff Gomez and other similarly situated non-exempt employees of Defendants.

6. By this action, Plaintiff Gomez is seeking damages and injunctive relief pursuant to the claims and causes of action alleged in this Complaint.

PARTIES

7. Plaintiff Gomez, an individual, alleges knowledge as to his own, and

1 information and belief as to all other matters, as follows:

2 8. Plaintiff was, at all times mentioned herein, a resident of the County of Los
3 Angeles, in the State of California. Plaintiff Gomez was employed by Defendants at all times
4 relevant to the causes of action set forth herein.

5 9. Defendant MFI is and was, at all times mentioned herein, a Corporation in the
6 State of California, and is authorized and doing business in the County of Los Angeles, State
7 of California at various locations. At all material times alleged herein, Defendant MFI was
8 subject to the laws and regulations of the State of California, including but not limited to the
9 California Labor Code ("Cal. Labor Code" or "Labor Code").

10 10. Plaintiff is ignorant of the true names of Defendant DOES 1 through 100,
11 inclusive, and therefore sues them by the above names which are fictitious. Plaintiff will
12 amend this complaint by inserting true names in lieu of the fictitious names, together with apt
13 and proper charging words, when the true names are ascertained. Plaintiff is informed and
14 believes, and thereupon alleges, that each of the Defendants designated in this Complaint as
15 DOES are responsible and liable to Plaintiff and Plaintiff Class in some manner for the
16 events, happenings, and contentions referred to in this complaint. All references in this
17 complaint to "Defendants" shall be deemed to include Defendants MFI and all DOE
18 Defendants collectively.

19 11. Plaintiff is informed and believes, and thereon alleges, that each Defendant,
20 including DOES, was and is the agent, employee, servant, subsidiary, partner, member,
21 associate, or representative of each other Defendant, including DOES, and all of the things
22 alleged to have been done by the Defendants, and each of them, were done in the course and
23 scope of the agency, employment, service, or representative relationship, and with the
24 knowledge and consent of their respective principals, employers, masters, parent
25 corporations, partners, members, associates, or representatives.

26 12. Some or all of the unlawful practices and tortious conduct complained of herein
27 occurred in the County of Los Angeles, State of California.

28 **FACTS COMMON TO ALL CAUSES OF ACITON**

1 13. While Plaintiff and Plaintiff Class Members were employed as non-exempt
2 construction workers, Plaintiff and the Plaintiff Class routinely worked periods of four (4)
3 hours or more, twice per work day, without receiving two (2) full, uninterrupted, ten (10)
4 minute rest break per every four (4) hours worked, in violation of the Cal. Labor Code and
5 California Industrial Commission's Order 16-2001.

6 14. Defendants did not provide Plaintiff and the Plaintiff Class, All Non-Exempt
7 Construction Workers, a thirty (30) minute meal period for every five hours worked and never
8 sought a written waiver from the employees prior to depriving them of the meal breaks due
9 under the law, in violation of the Cal. Labor Code and California Industrial Welfare
10 Commission's Order 16-2001.

11 15. Defendants did not provide Plaintiff and the Plaintiff Class, All Non-Exempt
12 Construction Workers, a recovery period, proper shade, and clean drinking water, in violation
13 of the Cal. Labor Code and California Industrial Welfare Commission's Order 16-2001.

14 16. Defendants are in the business of construction, which includes, but is not
15 limited to work involving alteration, demolition, building, renovation, remodeling,
16 maintenance, improvement and repair work. Defendants are subject to California Industrial
17 Welfare Commission Wage Orders 1-2001, and 16-2001, which are applicable to
18 Manufacturing and Certain On-Site Occupations in the Construction, Drilling, Logging, and
19 Mining Industries, 8 Cal. Code Reg. §11010.

20 17. Plaintiff is informed and believes, and thereupon alleges, that during the last
21 four (4) years, not fewer than 200 individual non-exempt construction workers and laborers
22 (hereinafter referred to as "All Non-Exempt Construction Workers" or "Plaintiff Class") were
23 employed by Defendants as Non-Exempt Construction Workers including, but not limited to,
24 all non-exempt construction and manufacturing workers at MFI construction worksites and
25 business locations.

26 18. All Non-Exempt Construction Workers at MFI were hired to work for eight (8)
27 hours or more, altering, demolishing, building, renovating, remodeling, maintaining,
28 improving, repairing, preparing, and cleaning, while not being compensated for all overtime

1 hours worked or being permitted to take their full uninterrupted meal, rest, and recovery
2 period breaks.

3 19. If a construction job or project were to come into/under Defendants' contract or
4 employ, then All Non-Exempt Construction Workers were required to work through rest,
5 meal, and recovery period breaks, and were not permitted to leave the workplace or
6 construction site, even when their shifts had finished, until the full amount of work related to
7 the job or project was completed.

8 20. Plaintiff is informed and believes, and thereupon alleges, that throughout the
9 period covered by this action, the Defendants designed and implemented a scheme that
10 required the All Non-Exempt Construction Workers to work long hours to complete special
11 projects, whereby the All Non-Exempt Construction Workers were discouraged from taking,
12 and denied, meal, rest, and recovery period breaks when the Defendants had large projects,
13 were extremely busy, and had to complete said projects in or under the times quoted to and
14 for major clients.

15 21. Plaintiff is informed and believes, and thereupon alleges, that throughout the
16 period covered by this action, Plaintiff and Plaintiff Class often worked before and after their
17 scheduled shifts in order to complete large projects, or to prepare for or complete their daily
18 work requirements. Moreover, Plaintiff alleges that the hours they were required to work
19 after their scheduled shifts ended, in order to finish large projects for major clients, were not
20 accurately accounted for or compensated.

21 22. Plaintiff is further informed and believes, and thereupon alleges, that the time
22 Plaintiff and Plaintiff Class worked before and after their scheduled shifts, in order to finish
23 large projects for major clients, were not accurately reported on their wage statements. This
24 caused Plaintiff and Plaintiff Class to be unable to properly account for the true and accurate
25 compensation owed for work performed by Plaintiff and Plaintiff Class for Defendants.

26 23. Plaintiff is further informed and believes, and thereupon alleges, that at all
27 times relevant to this action, Defendants required Plaintiff and Plaintiff Class to purchase
28 various items necessary for the conduction, completion, and discharge of Plaintiff and

1 Plaintiff Class' work duties. These necessary costs and expenditures included, but are not
 2 limited to, tools, equipment, and clean drinking water. Moreover, Plaintiff and Plaintiff Class
 3 were never fully compensated, or compensated at all, for these necessary costs and
 4 expenditures they were required to purchase. Plaintiff and Plaintiff Class assert that these
 5 actions of Defendants were in violation of Cal. Labor Code section 2802 et seq.

6 24. Plaintiff brings this action on behalf of himself, and on behalf of other current
 7 and former All Non-Exempt Construction Workers employed by Defendants and, pursuant to
 8 Business and Professions Code § 17200 et seq., on behalf of other members of the general
 9 public, as set out more fully in Causes of Action 1 through 10 of this Complaint.

10 **CLASS ACTION ALLEGATIONS**

11 **FAILURE TO PROVIDE REST PERIODS**

12 25. While employed as Non-Exempt Construction Workers, Plaintiff and the
 13 Plaintiff Class routinely worked periods of four (4) hours or more, twice per workday,
 14 without receiving a rest break. The California Industrial Welfare Commission Order 16-2001
 15 provides, in pertinent part, that:

16 "Every employer shall authorize and permit employees to take rest
 17 periods, which insofar as practicable shall be in the middle of each
 18 work period. The authorized rest period time shall be based on the
 19 total hours worked daily at the rate of ten (10) minutes net rest time
 20 per four (4) hours or major fraction thereof.

21 26. Defendants' practice of requiring employees to work for four (4) hours and
 22 more without a rest period is in violation of the Industrial Welfare Commission's Wage Order,
 23 the California Labor Code and relevant laws, rules, orders, requirements and regulations of
 24 the State of California and the United States of America.

25 27. Defendants required and permitted its employees to work without the rest
 26 periods provided by California Labor Law for more than four (4) years. Plaintiff and the
 27 putative class are entitled to back wages to compensate them retroactively for all break
 28 periods of which they were deprived during the class period, plus all applicable penalties, in

1 addition to one hour's compensation as prescribed by Wage Order 16-2001.

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 28. California Wage Order 16-2001, provides as follows:

4 “No employer shall employ any person for a work period of more than
5 five (5) hours without a meal period of not less than 30 minutes,
6 except that when a work period of not more than six (6) hours will
7 complete the day's work the meal period may be waived by mutual
8 consent of the employer and employees.

9 29. Defendants did not provide its All Non-Exempt Construction Workers,
10 including Plaintiff and Plaintiff Class, a thirty (30) minute meal period for every five (5)
11 hours worked and never sought a written waiver from the employees prior to depriving them
12 of their meal breaks due under the various laws. Defendants suffered and permitted its
13 employees to work without the meal periods prescribed by California Labor Law for more
14 than four (4) years. Plaintiff and the putative class are entitled to back wages to compensate
15 them retroactively for all meal periods of which they were deprived during the class period,
16 plus all applicable penalties, in addition to one hour's compensation.

17 **FAILURE TO PROVIDE RECOVERY PERIODS**

18 30. While employed as Non-Exempt Construction Workers, Plaintiff and the
19 Plaintiff Class routinely worked periods in conditions fully exposed to the sun, at
20 temperatures at or above 85 degrees Fahrenheit, without receiving an appropriate recovery
21 period break, shade, or clean drinking water, as required by The California Industrial Welfare
22 Commission and Cal. Labor Code section 227.6.

23 31. Defendants' practice of requiring employees to work in conditions fully
24 exposed to the sun, at temperatures at or above 85 degrees Fahrenheit, without receiving an
25 appropriate recovery period break, shade, or clean drinking water, was and is in violation of
26 the Industrial Welfare Commission's Wage Orders, the Cal. Labor Code and relevant laws,
27 rules, orders, requirements and regulations of the State of California.

28 32. Plaintiff and the putative class are entitled to back wages to compensate them

1 retroactively for all recovery break periods of which they were deprived during the class
 2 period, plus all applicable penalties, in addition to one hour's compensation as prescribed by
 3 Wage Order 16-2001 and the applicable California rules and regulations.

4 **FAILURE TO PAY WAGES OWED**

5 33. While employed as All Non-Exempt Construction Workers, Plaintiff and the
 6 Plaintiff Class routinely worked periods of time before and after their scheduled workdays.

7 34. California Labor Code §204 provides that all wages, other than those mentioned
 8 in 201, 201.3, 202, 204.1, and 204.2, earned by any person in any employment are due and
 9 payable twice during each calendar month, on days designated in advance by the employer as
 10 the regular paydays.

11 35. Furthermore, Industrial Welfare Commission Order 16-2001 provides, in
 12 pertinent part, that:

13 “Every employer shall pay to each employee, on the established
 14 payday for the period involved, not less than the applicable minimum
 15 wage for all hours worked in the payroll period...”

16 36. While employed as All Non-Exempt Construction Workers, Plaintiff and the
 17 PLANTIFF Class were caused to not receive their full pay for all work compensated, due to
 18 the acts and omissions of Defendants. These acts and omissions in turn caused Plaintiff and
 19 Plaintiff Class to not receive an amount equal to and in proper compensation for all hours
 20 worked, in accordance with Industrial Welfare Commission Order 16-2001 and applicable
 21 California rules and regulations.

22 37. Plaintiff and the Plaintiff Class are entitled to back pay for all of their unpaid
 23 wages.

24 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

25 38. While employed as All Non-Exempt Construction Workers, Plaintiff and the
 26 Plaintiff Class routinely worked periods of time before and after their scheduled workdays,
 27 which were not accurately accounted for on their wage statements.

28 39. Under California Labor Code §226 and Industrial Wage Order 1-2001,

Defendants were obligated to keep an accurate record of the hours of labor worked by Plaintiff and Plaintiff Class and to prepare and submit to Plaintiff and Plaintiff Class with each payment of wages an itemized statement accurately showing the total hours worked by Plaintiff and Plaintiff Class.

40. Defendants, and each of them, failed to keep precise records of Plaintiff' and Plaintiff Class' hours worked, and further failed to provide accurate itemized wage statements with each payment of wages to Plaintiff and Plaintiff Class as required by law. Instead, Defendants issued untimely, false, incorrect, fraudulent, and/or no wage statements to certain employees, including without limitation, Plaintiff and Plaintiff Class.

41. Pursuant to Labor Code §226, Plaintiff and Plaintiff Class are entitled to a penalty of \$50.00 for the first violation and \$100.00 per pay period for each subsequent violation of this section, according to proof, up to a maximum amount of \$4,000.00.

SUITABILITY OF CLASS

42. The First through Ninth Causes of Action in this Complaint are being brought, and may properly be maintained, as a class action pursuant to the provisions of California Code of Civil Procedure § 382 and other applicable law, because there is a well-defined community of interest in the litigation and the proposed class is ascertainable.

43. The proposed class that Plaintiff seeks to represent for the class action causes of action (hereinafter referred to as "Plaintiff Class" or "Class Members" or "All Non-Exempt Construction Workers") is composed of:

44. Current and former Moore Foundations, Inc. All Non-Exempt Construction Workers who were employed at MFI at any time beginning four (4) years preceding the filing of the Complaint in this action through final judgment in this action.

45. There is a well-defined community of interest in the litigation and the class is ascertainable:

- a. NUMEROSITY: The Plaintiff Class is so numerous that the individual joinder of all members is impractical under the circumstances of this case. While the exact number of persons in Plaintiff Class is unknown to Plaintiff at this time,

Plaintiff are informed and believes, and thereon allege, that over 200 current and former All Non-Exempt Construction Workers have been employed by Defendants at MFI during the period commencing four (4) years prior to the filing of the Complaint in this action, to date.

- b. COMMON QUESTIONS PREDOMINATE: Common questions of law and fact exist as to all members of the Plaintiff Class and predominate over any questions that affect only individual members of the class. The predominant common questions of law and fact include:
 - i. Whether Defendants provided Plaintiff and Plaintiff Class with proper Rest, Meal, and Recovery Periods;
 - ii. Whether Defendants provided Plaintiff and Plaintiff Class with shade and clean drinking water when the outside temperature reached 85 degrees Fahrenheit or above;
 - iii. Whether Defendants provided Plaintiff and Plaintiff Class with accurate earnings statements and documentation of their hours worked.
 - iv. Whether Defendants properly compensated Plaintiff and Plaintiff Class with all wages earned, including overtime, when due;
 - v. Whether Defendants timely paid all wages due to discharged and quitting employees; and
 - vi. Whether Defendants properly compensated Plaintiff and Plaintiff Class for all paid time off earned or due.
- c. TYPICALITY: Plaintiff's claims are typical of the claims of the Plaintiff Class. Plaintiff and Plaintiff Class sustained damages arising out of Defendants' common practice of failing to provide meal breaks, rest breaks, recovery period breaks, proper wage statements, and proper compensation for the time they worked and paid time off they were owed.
- d. ADEQUACY: Plaintiff will fairly and adequately protect the interests of the members of the class. Plaintiff's attorneys have experience in employment and

1 class action matters and may adequately represent the class in this matter.

2 Plaintiff has no interest that is adverse to the interests of those in the Plaintiff
3 Class.

- 4 e. SUPERIORITY: A class action is superior to other available means for the fair
5 and efficient adjudication of this controversy. Because individual joinder of all
6 members of the class is impractical, class action treatment will permit a large
7 number of similarly situated persons to prosecute their common claims in a
8 single forum simultaneously, efficiently and without the unnecessary
9 duplication of effort and expense that numerous individual actions would
10 engender. The relatively minor amount of individual damages in question
11 coupled with the expenses and burdens of individual litigation would make it
12 difficult or impossible for individual members of the class to redress the wrongs
13 done to them, while important public interests will be served by addressing the
14 matter as a class action. The cost to, and burden on, the court system of
15 adjudication of individualized litigation would be substantial and substantially
16 more than the costs and burdens of a class action. Individualized litigation
17 would also present the potential for inconsistent or contradictory judgments.

18 46. In addition to the above-listed Class Allegations, Plaintiff asserts the following
19 causes of action, not only on his own behalf, but on behalf of the putative class members as
20 well:

21 **FIRST CAUSE OF ACTION**

22 FAILURE TO PAY OVERTIME WAGES [Cal. Labor Code §510(a)]

23 (Against All Defendants)

24 47. Plaintiff realleges and incorporates by reference each and every allegation
25 contained in each and every aforementioned paragraph, as though fully set forth herein.

26 48. Under California Labor Code § 510(a):

27 “Eight hours of labor constitutes a day’s work. Any work in excess of
28 eight hours in one workday and any work in excess of 40 hours in any

one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee."

49. During Plaintiff and Plaintiff Class' employment with Defendants on several occasions, Defendants required that Plaintiff and Plaintiff Class work, and Plaintiff and Plaintiff Class actually worked, in excess of eight (8) hours in one (1) workday and in excess of forty (40) hours in one (1) workweek. On such occasions, Defendants failed to properly compensate Plaintiff and Plaintiff Class at least one and one-half times their regular rate of pay for overtime hours worked.

50. Defendants, to this date, have not paid Plaintiff and Plaintiff Class for the overtime hours they worked.

51. As a proximate result of Defendants' failure to pay Plaintiff and Plaintiff Class overtime, pursuant to the provisions of California Labor Code § 510(a), Plaintiff and Plaintiff Class have suffered losses in earnings, and other employment benefits along with other incidental and consequential damages and losses, all in an amount to be proven at trial.

52. As a proximate result of Defendants' failure to pay Plaintiff and Plaintiff Class overtime, pursuant to the provisions of California Labor Code § 510(a), Plaintiff and Plaintiff Class have suffered and will continue to suffer economic damages in an amount to be proven at trial.

53. Pursuant to California Labor Code § 218.5, Plaintiff and Plaintiff Class requests that the court award reasonable attorney's fees and costs incurred in this action.

54. Plaintiff and Plaintiff Class also seeks damages pursuant to California Labor Code § 2699(f) and California Labor Code § 558.

SECOND CAUSE OF ACTION

FAILURE TO ALLOW MEAL BREAKS [Cal. Labor Code §226.7]

(Against All Defendants)

55. Plaintiff re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

56. California Labor Code § 226.7 requires an employer to pay an additional hour of compensation for each required meal period the employer fails to provide. Employees are entitled to a meal period of at least thirty (30) minutes per five (5) hour work period.

57. Plaintiff and Plaintiff Class consistently worked over five (5) hour shifts. Pursuant to the Labor Code and Wage Orders 1-2001 and 16-2001, Plaintiff and Plaintiff Class were entitled to an uninterrupted meal period of not less than thirty (30) minutes prior to exceeding five (5) hours of employment.

58. Defendants failed to provide Plaintiff and Plaintiff Class with either timely uninterrupted meal breaks of not less than thirty (30) minutes, or to provide Plaintiff and Plaintiff Class with an additional hour of compensation, at their regular rate of pay, for each meal period missed as required during the time that Plaintiff and Plaintiff Class were employed with Defendants.

59. Pursuant to California Labor Code § 226.7, Plaintiff and Plaintiff Class are entitled to damages of one (1) hour of wages per missed meal break, in a sum to be proven at trial.

60. Plaintiff and Plaintiff Class also seeks damages pursuant to California Labor Code § 2699(f) and California Labor Code § 558.

THIRD CAUSE OF ACTION

FAILURE TO ALLOW REST BREAKS [Cal. Labor Code §226.7]

(Against All Defendants)

61. Plaintiff re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

62. California Labor Code § 226.7 requires an employer to pay an additional hour of compensation for each workday where an employee fails to receive a rest period for each consecutive four (4) hour shift worked. Employees are entitled to an uninterrupted net rest period of at least ten (10) minutes per each consecutive four (4) hour work period or major fraction thereof, after the first three and one-half (3½) hours worked in a workday.

63. Plaintiff and Plaintiff Class consistently worked four (4) hour shifts. Pursuant

1 to the California Labor Code and Wage Orders 1-2001 and 16-2001, Plaintiff and Plaintiff
 2 Class are entitled to an uninterrupted rest period of not less than ten (10) minutes for each
 3 consecutive four (4) hour shift worked or major fraction thereof.

4 64. Defendants failed to provide Plaintiff and Plaintiff Class with either timely
 5 uninterrupted rest breaks of not less than ten (10) minutes, or to provide Plaintiff and Plaintiff
 6 Class with an additional hour of compensation, at their regular rate of pay, for each rest
 7 period missed as required during the time that Plaintiff and Plaintiff Class were employed
 8 with Defendants.

9 65. Pursuant to California Labor Code § 226.7, Plaintiff and Plaintiff Class are
 10 entitled to damages of one (1) hour of wages per missed rest break, in a sum to be proven at
 11 trial.

12 66. Plaintiff and Plaintiff Class also seeks damages pursuant to California Labor
 13 Code § 2699(f) and California Labor Code § 558.

14 **FOURTH CAUSE OF ACTION**

15 FAILURE TO PROVIDE RECOVERY PERIOD BREAKS [Cal. Labor Code §226.7]

16 (Against All Defendants)

17 67. Plaintiff re-alleges and incorporates by reference each and every allegation
 18 contained in each and every aforementioned paragraph as though fully set forth herein.

19 68. California Labor Code § 226.7 requires an employer to pay an additional hour
 20 of compensation for each workday where an employee fails to receive a required recovery
 21 period break for days in which a construction worker works in weather conditions of 85
 22 degrees Fahrenheit or above while being exposed to the sun. Further, the law requires an
 23 employer in such a situation to provide clean drinking water, shade, and an appropriate
 24 amount of time to recover.

25 69. Plaintiff and Plaintiff Class consistently worked when it was 85 degrees
 26 Fahrenheit in direct exposure to the sun. Moreover, Plaintiff and Plaintiff Class were not
 27 provided with clean drinking water and shade on such occasions. Pursuant to the California
 28 Labor Code and the appropriate laws, Plaintiff and Plaintiff Class are entitled to an

appropriate recovery period, clean drinking water, and shade.

70. Defendants failed to provide Plaintiff and Plaintiff Class with recovery period breaks, shade, and clean drinking water. Moreover Defendants did not provide Plaintiff and Plaintiff Class with an additional hour of compensation, at their regular rate of pay, for each recovery period missed as required during the time that Plaintiff and Plaintiff Class were employed with Defendants.

71. Pursuant to California Labor Code § 226.7, Plaintiff and Plaintiff Class are entitled to damages of one (1) hour of wages per missed recovery period break, in a sum to be proven at trial.

72. Plaintiff and Plaintiff Class also seeks damages pursuant to California Labor Code § 2699(f) and California Labor Code § 558.

FIFTH CAUSE OF ACTION

WAITING TIME PENALTIES [Cal. Labor Code §§201-203]

(Against All Defendants)

73. Plaintiff realleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

74. Defendants' failure to pay wages, as alleged above, was willful in that Defendants, and each of them, knew wages to be due but failed to pay them, thus entitling Plaintiff and Plaintiff Class to penalties under California Labor Code §203, which provides that an employee's wages shall continue as penalty until paid in full, for a period of up to thirty (30) days from the time they were due.

75. Plaintiff believes, and based thereon alleges, that Defendants have failed to pay Plaintiff and Plaintiff Class in a sum certain at the time of termination and have failed to pay these sums for thirty (30) days thereafter. Pursuant to the provisions of California Labor Code §203, Plaintiff and Plaintiff Class are entitled to penalties in the amount of Plaintiff' and Plaintiff Class' daily wages, multiplied by thirty (30) days.

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SIXTH CAUSE OF ACTION**FAILURE TO PAY FOR ALL HOURS WORKED WHEN DUE [Cal. Labor Code §204]****(Against All Defendants)**

76. Plaintiff realleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

77. Section 204 of the California Labor Code states that all wages, other than those mentioned in 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.

78. As described hereinabove, Defendants failed to pay Plaintiff and Plaintiff Class all wages owed for all hours worked, per pay period, in a timely manner.

79. Defendants therefore owe damages to Plaintiff and Plaintiff Class in the amount of any remaining unpaid wages, in addition to penalties pursuant to California Labor Code §210, in the amount of \$100.00 for each failure to pay Plaintiff and Plaintiff Class.

SEVENTH CAUSE OF ACTION**FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS [Cal. Labor Code §226]****(Against All Defendants)**

80. Plaintiff realleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

81. Defendants, and each of them, were obligated under Labor Code § 226 and Industrial Wage Orders 1-2001 and 16-2001, to keep an accurate record of the hours of labor worked by Plaintiff and Plaintiff Class and to prepare and submit to Plaintiff and Plaintiff Class, with each payment of wages, an itemized statement accurately showing the total hours worked by Plaintiff and Plaintiff Class.

82. Pursuant to Labor Code § 226, Plaintiff and Plaintiff Class are entitled to a penalty of \$50.00 for the first violation and \$100.00 per pay period for each subsequent violation of this section, according to proof, up to a maximum amount of \$4,000.00.

83. In this instance, Defendants, and each of them, either prepared and submitted to

1 Plaintiff and Plaintiff Class inaccurate wage statements, or did not prepare and submit any
 2 wage statements to Plaintiff and Plaintiff Class during the relevant statutory period and during
 3 the entire term of Plaintiff and Plaintiff Class' employment with Defendants.

4 **EIGHTH CAUSE OF ACTION**

5 **FAILURE TO COMPENSATE AND INDEMNIFY EMPLOYEES FOR NECESSARY** 6 **COSTS INCURRED THEREBY [Cal. Labor Code §§2802, et seq.]**

7 (Against All Defendants)

8 84. Plaintiff realleges and incorporates by reference each and every allegation
 9 contained in each and every aforementioned paragraph as though fully set forth herein.

10 85. California Labor Code § 2802 states in pertinent part:

11 An employer shall indemnify his or her employee for all necessary
 12 expenditures or losses incurred by the employee in direct consequence
 13 of the discharge of his or her duties, or of his or her obedience to the
 14 directions of the employer, even though unlawful, unless the
 15 employee, at the time of obeying the directions, believed them to be
 16 unlawful.

17 86. Plaintiff and Plaintiff Class were consistently directed and required by
 18 Defendants to purchase items necessary for the conduction, completion, and discharge of their
 19 employment duties. This often included purchasing tools, equipment, materials, and clean
 20 drinking water for the various job, work, and construction sites of Defendants.

21 87. Defendants consistently, if not always, failed to indemnify Plaintiff and
 22 Plaintiff Class for the necessary items they purchased by adequately compensating them for
 23 the costs incurred by Plaintiff and Plaintiff Class when purchasing the above-mentioned
 24 necessary costs and expenditures.

25 88. Pursuant to California Labor Code § 2802, Plaintiff and Plaintiff Class are
 26 entitled full reimbursement of the necessary costs and expenditures they incurred, plus
 27 interest as determined from the date said necessary costs and expenditures were incurred, in a
 28 sum to be proven at trial. Plaintiff and Plaintiff Class will also seek attorneys' fees incurred

1 by Plaintiff and Plaintiff Class for the enforcement of their rights of reimbursement, as
2 permitted by Cal. Labor Code §2802.

3 89. Plaintiff and Plaintiff Class also seeks damages pursuant to California Labor
4 Code § 2699(f) and California Labor Code § 558.

5 **NINTH CAUSE OF ACTION**

6 UNFAIR BUSINESS PRACTICES [Business & Professions Code §17200]

7 (Against All Defendants)

8 90. Plaintiff realleges and incorporates by reference each and every allegation
9 contained in each and every aforementioned paragraph as though fully set forth herein.

10 91. California Business and Professions Code § 17200, et seq. prohibits unlawful
11 and unfair business practices. Plaintiff and Plaintiff Class are “persons” within the meaning of
12 California Business & Professions Code (hereinafter "B&P Code") § 17204, and have
13 standing to bring this cause of action for injunctive relief, restitution, and other appropriate
14 equitable relief.

15 92. Wage and hour laws express fundamental public policies. California Labor
16 Code § 90.5(a) and § 98.6 articulate the public policies of this State to enforce vigorously
17 minimum labor standards, to ensure that employees are not required or permitted to work
18 under substandard and unlawful conditions, to ensure employees are not retaliated against for
19 complaining of violations under the Labor Code, and to protect law-abiding employers and
20 their employees from competitors who lower their costs by failing to comply with minimum
21 labor standards.

22 93. Defendants have violated statutes and public policies, as alleged throughout this
23 Complaint. Through the conduct alleged in this Complaint, Defendants have acted contrary to
24 these public policies, have violated specific provisions of the California Labor Code, and have
25 engaged in other unlawful and unfair business practices in violation of B&P Code § 17200, et
26 seq., depriving Plaintiff of the rights, benefits, and privileges guaranteed to all employees
27 under the law.

28 94. Moreover, by not properly compensating Plaintiff and Plaintiff Class, and

1 improperly gaining extra labor by failing to provide rest and meal periods to Plaintiff and
2 Plaintiff Class, Defendants have gained an unfair business advantage over other California
3 companies that follow the letter of the law and do not make such ill-gotten gains, in further
4 violation of B&P Code § 17200.

5 95. Defendants, by violating wage and hour laws as described above under the
6 California Labor Code, either knew or in the exercise of reasonable care should have known
7 that their conduct was unlawful. Therefore, Defendants' conduct, as alleged herein,
8 constitutes unfair competition and unfair business practices in violation of B&P Code §
9 17200, et seq.

10 96. As a proximate result of the above-mentioned acts of Defendants, Plaintiff and
11 Plaintiff Class have been damaged in a sum to be proven at trial.

12 97. Unless restrained by this Honorable Court, Defendants will continue to engage
13 in the unlawful conduct as alleged herein. Pursuant to the B&P Code, this Court should make
14 such orders or judgments, including the appointment of a receiver, as may be necessary to
15 prevent the use or employment, by Defendants, their agents or employees, of any unlawful or
16 deceptive practice prohibited by the B&P Code and/or, including but not limited to,
17 disgorgement of profits which may be necessary to restore Plaintiff and Plaintiff Class with
18 the money Defendants have unlawfully failed to pay.

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20 WHEREFORE, Plaintiff and Plaintiff Class request relief as hereinafter provided.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff and Plaintiff Class pray for judgment against Defendants, and each of them, as follows:

1. For compensatory, consequential and incidental damages (including past and future lost wages, bonuses, expenses and other losses) in an amount to be proven at trial;
2. For general damages, including money damages for mental pain, anguish, and emotional distress, in an amount to be proven at trial;
3. For special damages, according to proof;
4. For prejudgment interest;
5. For attorneys' fees pursuant to Labor Code §§ 218.5, 1194, and 2699, Code of Civil Procedure § 1021.5, and all other provisions of law authorizing an award of attorney's fees;
6. For civil penalties pursuant to California Labor Code §§ 210, 226.3, 558, and 1197.1;
7. For waiting time penalties pursuant to California Labor Code § 203;
8. For the costs of suit herein incurred;
9. For interest on the amount of compensation due, according to proof; and
10. For such other and further relief as this Court may deem proper.

DATED: September 1, 2023

Respectfully Submitted,

SOLOUKI | SAVOY, LLP

/s/ Grant Joseph Savoy .
Grant Joseph Savoy, Esq.
Attorneys for Plaintiff
LUIS EDUARDO GOMEZ
and Class MEMBERS

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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury on all issues so triable in the Complaint.

DATED: September 1, 2023

Respectfully Submitted,
SOLOUKI | SAVOY, LLP

/s/ Grant Joseph Savoy .
Grant Joseph Savoy, Esq.
Attorneys for Plaintiff
LUIS EDUARDO GOMEZ
and Class MEMBERS