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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11 UNLIMITED JURISDICTION

13 HERMAN WELCH, on behalf of himself and
14 all others similarly situated aggrieved
employees, and the general public,

15 *Plaintiff,*

16 v.

17 SOLARI ENTERPRISES, INC., a California
18 corporation; and DOES 1 through 50,
inclusive,

19 *Defendants.*

Case No. 21STCV38674

REPRESENTATIVE ACTION

COMPLAINT

1. Civil Penalties (Lab. Code § 2698, *et seq.*)

1 Plaintiff HERMAN WELCH ("Plaintiff"), on behalf of himself and all others similarly
2 situated aggrieved employees, the general public, and the State of California complains and alleges
3 as follows:

4 INTRODUCTION

5 1. Plaintiff brings this representative action against defendant SOLARI
6 ENTERPRISES, INC., a California corporation; and DOES 1 through 50, inclusive, (collectively
7 referred to as "Defendants") for alleged violations of the Labor Code. As set forth below, Plaintiff
8 alleges that Defendants have

- 9 (1) failed to provide Plaintiff and all other similarly situated aggrieved employees with
10 meal periods;
- 11 (2) failed to provide them with rest periods;
- 12 (3) failed to pay them premium wages for missed meal and/or rest periods;
- 13 (4) failed to pay them premium wages for missed meal and/or rest periods at the regular
14 rate of pay;
- 15 (5) failed to pay them at least minimum wage for all hours worked;
- 16 (6) failed to pay them overtime wages at the correct rate;
- 17 (7) failed to pay them double time wages at the correct rate;
- 18 (8) failed to pay them overtime and/or double time wages by failing to include all
19 applicable remuneration in calculating the regular rate of pay;
- 20 (9) failed to reimburse them for all necessary business expenses;
- 21 (10) failed to provide them with accurate written wage statements; and
- 22 (11) failed to pay them all of their final wages following separation of employment.

23 Based on these alleged violations, Plaintiff now brings this representative action to recover civil
24 and statutory penalties, and related relief on behalf of himself and all others similarly situated, all
25 other aggrieved employees, and the State of California.

26 JURISDICTION AND VENUE

27 2. This Court has subject matter jurisdiction to hear this case because the penalties sought
28 by Plaintiff from Defendants exceeds the minimal jurisdictional limits of the Superior Court of the

1 State of California.

2 3. Venue is proper in Los Angeles County pursuant to Code of Civil Procedure
3 §§395(a) and 395.5 in that liability arose there, because at least some of the transactions that are the
4 subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices,
5 transacts business, and/or has an agent therein.

6 **PARTIES**

7 4. Plaintiff HERMAN WELCH is and was, and at all relevant times mentioned herein,
8 an individual residing in the State of California.

9 5. Plaintiff is informed and believes, and thereupon alleges, that Defendant SOLARI
10 ENTERPRISES, INC. is, and at all relevant times mentioned herein, a California corporation doing
11 business in the State of California.

12 6. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
13 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names.
14 Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants
15 when ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of the
16 fictitiously named defendants are responsible in some manner for the occurrences, acts and
17 omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these
18 defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and
19 capacities of the DOE defendants when ascertained.

20 7. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
21 mentioned herein, some or all of the defendants were the representatives, agents, employees,
22 partners, directors, associates, joint venturers, joint employers, principals, or co-participants of some
23 or all of the other defendants, and, in doing the things alleged herein, were acting within the course
24 and scope of such relationship and with the full knowledge, consent, and ratification by such other
25 defendants.

26 **GENERAL ALLEGATIONS**

27 8. Plaintiff worked for Defendants as an hourly, non-exempt employee from
28 approximately October 21, 2019 through September 2, 2020.

Off-the-Clock Work

9. Plaintiff and the aggrieved employees were not paid all wages earned as Defendants directed, permitted, or otherwise encouraged Plaintiff and the aggrieved employees to perform off-the-clock work.

10. Plaintiff and the aggrieved employees regularly started work before their scheduled work hours and were not paid for this time. Plaintiff and the aggrieved employees were instructed by their trainers and managers to report to work before their scheduled shifts in order to perform shift-opening duties including but not limited to opening up the office at the start of the day. Additionally, Plaintiff and the aggrieved employees were required by Defendants to stay after they had “clocked-out” to conduct shift closing duties including but not limited to cleaning, checking to see that the office was in order, and locking everything up. Defendants did not compensate Plaintiff and aggrieved employees for this time spent working “off-the-clock.”

11. Furthermore, Plaintiff and the aggrieved employees were required to spend time at the beginning of each workday booting their computers up before clocking-in. This could take as long as five (5) minutes. Sometimes the computer that Plaintiff and the aggrieved employees would not function properly to clock them in and Plaintiff and the aggrieved employees were instructed to inform their Managers who would then clock them in.

12. Plaintiff and the aggrieved employees regularly performed work before and/or after their scheduled work hours and were not paid for this time.

13. As a result of performing off-the-clock work that was directed, permitted, or otherwise encouraged by Defendants, Plaintiff and the aggrieved employees should have been paid for this time. Instead, Defendants only paid Plaintiff and the aggrieved employees based on the time they were clocked in for their shifts and did not pay Plaintiff and the aggrieved employees for any of the time spent working off-the-clock.

14. Defendants knew or should have known that Plaintiff and the aggrieved employees were performing work before and after their scheduled work shifts and failed to pay Plaintiff and the aggrieved employees for these hours.

15. Defendants were aware of this practice and directed, permitted, or otherwise

1 encouraged Plaintiff and the aggrieved employees to perform off-the-clock work.

2 16. As a result of Defendants' policies and practices, Plaintiff and the aggrieved
3 employees were not paid for all hours worked.

4 **Missed Meal Periods**

5 17. Plaintiff and the aggrieved employees were not provided with meal periods of at
6 least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not
7 scheduling each meal period as part of each work shift; (2) chronically understaffing each work
8 shift with not enough workers; (3) imposing so much work on each employee such that it made it
9 unlikely that an employee would be able to take their breaks if they wanted to finish their work on
10 time; and (4) no formal written meal and rest period policy that encouraged employees to take their
11 meal and rest periods. Additionally, Plaintiff and the aggrieved employees regularly had their meal
12 period interrupted by their managers and supervisors including, but not limited to, Anthony
13 Crawford. Defendants would regularly call Plaintiff and the aggrieved employees and interrupt
14 their meal periods, sometimes calling them back to work in emergency situations that required
15 prompt attention.

16 18. As a result of Defendants' policy, Plaintiff and the aggrieved employees were
17 regularly not provided with uninterrupted meal periods of at least thirty (30) minutes for each five
18 (5) hours worked due to complying with Defendants' productivity requirements that required
19 Plaintiff and the aggrieved employees to work through their meal periods in order to complete their
20 assignments on time.

21 **Missed Rest Periods**

22 19. Plaintiff and the aggrieved employees were not provided with rest periods of at least
23 ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
24 Defendants' policy of not scheduling each rest period as part of each work shift; (2) chronically
25 understaffing each work shift with not enough workers; (3) imposing so much work on each
26 employee such that it made it unlikely that an employee would be able to take their breaks if they
27 wanted to finish their work on time; and (4) no formal written meal and rest period policy that
28 encouraged employees to take their meal and rest periods. Specifically, under the direction of

1 Defendants managers and supervisors including but not limited to Supervisor Anthony Crawford,
2 Regional Manager Kiana [surname unknown], and Anel Murphy, Plaintiff and aggrieved
3 employees were instructed to get all of their work done in a timely manner and were never
4 informed of their rights to take rest breaks. Plaintiff and the aggrieved employees were
5 systematically denied rest breaks and did not take rest breaks while performing their work
6 obligations.

7 20. As a result of Defendants' policy, Plaintiff and the aggrieved employees were
8 regularly not provided with uninterrupted rest periods of at least ten (10) minutes for each four (4)
9 hours worked due to complying with Defendants' productivity requirements that required Plaintiff
10 and the aggrieved employees to work through their rest periods in order to complete their
11 assignments on time.

12 Overtime Rate of Pay

13 Additionally, Defendants failed to pay Plaintiff and the aggrieved employees at their proper
14 overtime rate. Plaintiff was employed at an hourly rate of \$19. On his final paycheck it notes that he
15 worked 0.82 hours of overtime. Welch was compensated at his straight time rate of pay for these
16 overtime hours, resulting in a total payment of \$15.58. Paid at time and a half, Welch's overtime
17 rate should have been at least \$28.5 per hour for a total payment of at least \$23.37 for the 0.82 hours
18 of overtime credited to him. Welch and the aggrieved employees were not paid their proper rate of
19 overtime.

20 Expense Reimbursement

21 21. Plaintiff and the aggrieved employees members were required to utilize their own
22 personal tools to perform their job duties.

23 22. Additionally, Plaintiff and the aggrieved employees were required to use their
24 personal vehicles to perform work duties and were not reimbursed for all gas and mileage.

25 23. Plaintiff and the aggrieved employees members were not reimbursed for business
26 expenses incurred in using and maintaining their tools.

27 24. Defendants failed to reimburse Plaintiff and the aggrieved employees for such
28 necessary business expenses incurred by them.

Wage Statements

25. Plaintiff and the aggrieved employees were not provided with accurate wage statements as mandated by law pursuant to Labor Code § 226.

26. Defendants failed to comply with Labor Code section 226(a)(1) as “gross wages earned” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work, were not included.

27. Defendants failed to comply with Labor Code section 226(a)(2) as “total hours worked by the employee” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work, were not included.

28. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages earned” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work, were not included.

29. Defendants failed to comply with Labor Code section 226(a)(6) as “the inclusive dates of the period for which the employee is paid” were not included.

30. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” were not accurately reflected in that all hours worked, including overtime and “off-the-clock” work, were not included.

FIRST CAUSE OF ACTION

CIVIL PENALTIES

(Lab. Code §§ 2698 *et seq.*)

31. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

32. During the applicable limitations period, Defendants have violated Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, 1198, and 2802.

33. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of himself and other current and former employees, to bring a representative civil action to recover civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

1 34. Plaintiff, a former employee against whom Defendants committed one or more of the
2 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee
3 within the meaning of Labor Code § 2699(c).

4 35. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
5 § 2699.3. Notice was timely provided to the California Labor & Workforce Development Agency
6 (“LWDA”) and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an
7 intent to intervene.

8 36. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
9 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510,
10 512, 1194, 1197, 1198 and 2802:

11 i. For violations of Labor Code §§ 201, 202, 203, 212, 226.7, 1194, 1198 and
12 2802, one hundred dollars (\$100) for each employee per pay period for each
13 initial violation and two hundred dollars (\$200) for each employee per pay
14 period for each subsequent violation (penalties set by Labor Code §
15 2699(f)(2));

16 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding
17 thirty (30) days’ pay as waiting time (penalties set by Labor Code § 256);

18 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each
19 employee for each initial violation that was neither willful nor intentional,
20 two hundred dollars (\$200) for each employee, plus 25% of the amount
21 unlawfully withheld from each employee, for each initial violation that was
22 either willful or intentional, and two hundred dollars (\$200) for each
23 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
24 from each employee, for each subsequent violation, regardless of whether the
25 subsequent violation was either willful or intentional (penalties set by Labor
26 Code § 210);

27 iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each
28 employee for each initial violation that was neither willful nor intentional,

1 two hundred dollars (\$200) for each employee, plus twenty-five percent
2 (25%) of the amount unlawfully withheld from each employee, for each
3 initial violation that was either willful or intentional, and two hundred dollars
4 (\$200) for each employee, plus twenty-five percent (25%) of the amount
5 unlawfully withheld from each employee, for each subsequent violation,
6 regardless of whether the subsequent violation was either willful or
7 intentional (penalties set by Labor Code § 225.5);

8 v. For violations of Labor Code § 226(a), if this action is deemed to be an initial
9 citation, two hundred and fifty dollars (\$250) for each employee for each
10 violation. Alternatively, if an initial citation or its equivalent occurred before
11 the filing of this action, one thousand dollars (\$1,000) for each employee for
12 each violation (penalties set by Labor Code § 226.3);

13 vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
14 employee for each initial pay period for which the employee was underpaid,
15 and one hundred dollars (\$100) for each employee for each subsequent pay
16 period for which the employee was underpaid (penalties set by Labor Code §
17 558);

18 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
19 aggrieved employee for each initial violation of Labor Code § 1197 that was
20 intentional and two hundred and fifty dollars (\$250) for each aggrieved
21 employee per pay period for each subsequent violation of Labor Code §
22 1197, regardless of whether the initial violation was intentional (penalties set
23 by Labor Code § 1197.1);

24 viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable
25 attorneys' fees and costs in connection with Plaintiff's claims for civil
26 penalties.

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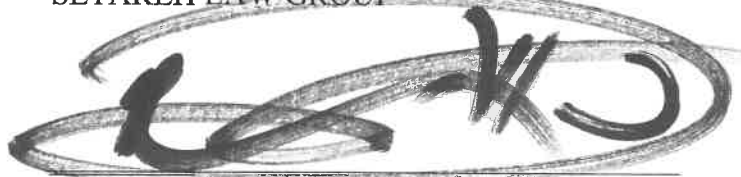
1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated aggrieved
3 employees, and the general public, prays for relief and judgment against Defendants as follows:

- 4 (1) Pre-judgment interest;
5 (2) Statutory penalties;
6 (3) Civil penalties;
7 (4) Costs of suit;
8 (5) Reasonable attorneys' fees; and
9 (6) Such other relief as the Court deems just and proper.

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12 Dated: October 19, 2021

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