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FILED
 Superior Court of California
 County of Los Angeles

02/24/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: C. Gomez Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

EDGARDO ARELLANO, individually
 and on behalf of all others similarly
 situated,

Plaintiff,

v.

VISION SCENERY CORPORATION,
 INC., a California corporation; and DOES
 1 through 50, inclusive,

Defendants.

CASE NO.: 21STCV35878

Assigned for all purposes to:
 Hon. Kenneth R. Freeman, Dept. 14

**FIRST AMENDED CLASS AND
 REPRESENTATIVE ACTION
 COMPLAINT**

1. Failure to Pay All Wages;
2. Failure to Provide Meal Periods or Compensation in Lieu Thereof;
3. Failure to Permit Rest Periods or Provide Compensation in Lieu Thereof;
4. Knowing and Intentional Failure to Provide Accurate Itemized Wage Statements;
5. Waiting Time Penalties;
6. Failure to Reimburse Business Expenses;
7. Violations of the Unfair Competition Law; and
8. Violation of the Private Attorneys General Act of 2004

Action Filed: September 29, 2021

Trial Date: None set

JURY TRIAL DEMANDED

1 Plaintiff EDGARDO ARELLANO (“Plaintiff”), on behalf of himself and all others
2 similarly situated, hereby brings this First Amended Class and Representative Action Complaint
3 (“FAC”) against Defendants VISION SCENERY CORPORATION, INC., a California corporation
4 and DOES 1 through 50, inclusive (collectively “Defendants”), and alleges as follows:

5 **INTRODUCTION**

6 1. This proposed class action, pursuant to California Code of Civil Procedure section
7 382, is brought by Plaintiff individually and on behalf of all current and former non-exempt
8 employees employed by Defendants in California during the Class Period (collectively the “Class”
9 or “Class Members”). The term Class Period is defined as four years prior to the filing of this action
10 to the date of class certification.

11 2. This proposed class action seeks, *inter alia*, unpaid wages (including minimum,
12 regular, overtime, and double time wages), compensation for non-compliant meal periods and rest
13 breaks, waiting time penalties, itemized wage statement penalties, business expense
14 reimbursements, liquidated damages, interest, penalties, reasonable attorneys’ fees, and costs.
15 Plaintiff’s class action is brought under, *inter alia*, the California Industrial Welfare Commission
16 (“IWC”) Wage Orders and applicable provisions of the California Code of Regulations, California
17 Business & Professions Code sections 17200 *et seq.*, California Civil Code section 3289, California
18 Code of Civil Procedure section 1021.5, and California Labor Code (“Labor Code”) sections 201-
19 204, 206, 210, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197,
20 1197.1, 1198, 2800, and 2802.

21 3. Plaintiff also brings this representative action pursuant to the Private Attorneys
22 General Act of 2004, Labor Code sections 2698 *et seq.* (“PAGA”), against Defendants, on behalf
23 of himself individually and other aggrieved employees who are and were employed by Defendants
24 as non-exempt employees throughout California during the PAGA Period. The term PAGA Period
25 is defined as one (1) year prior to Plaintiff’s notice of labor code violations to the Labor and
26 Workforce Development Agency (“LWDA”) and Defendants until judgment.

27 4. Under the California Unfair Competition Law, Business and Professions Code
28 sections 17200 *et seq.* (“UCL”), and pursuant to the class action procedures provided for in this

1 statute, Plaintiff, on behalf of himself and the proposed Class, seeks declaratory relief, injunctive
2 relief, and restitution of all benefits Defendants have received from their employees due to their
3 unlawful business practices, including but not limited to, their failure to timely provide minimum,
4 regular, overtime, and double time compensation due for all hours worked, failure to reimburse
5 business expenses, failure to provide compliant meal periods and rest breaks to their employees or
6 compensation in lieu thereof, and failure to provide accurate itemized wage statements.

7 **JURISDICTION AND VENUE**

8 5. This Court has jurisdiction over all causes of action asserted herein pursuant to the
9 California Constitution, Article VI, section 10, which grants the Superior Court original jurisdiction
10 in all cases except those given to other trial courts. All claims alleged herein arise under California
11 law for which Plaintiff seeks relief authorized by California law. Further, this is a class action
12 pursuant to California Code of Civil Procedure section 382 and representative action under PAGA.
13 As such, the monetary damages, restitution, penalties, and other amounts sought by Plaintiff
14 exceeds the minimal jurisdictional limits of the Superior Court and will be established according to
15 proof at trial. The Court also has jurisdiction over certain causes of action pursuant to California
16 Business & Professions Code sections 17203 and 17204, which provide for exclusive jurisdiction
17 for enforcement of this statute in any court of competent jurisdiction.

18 6. This Court has jurisdiction over all Defendants because each Defendant is a citizen
19 of California, a corporation or association organized under the laws of the State of California, an
20 association authorized to do business in California and registered with the California Secretary of
21 State, does sufficient business in California, has sufficient minimum contacts with California,
22 and/or intentionally avails itself of the laws and markets of California through the promotion, sale,
23 marketing and distribution of its products and/or services in California to render the exercise of
24 jurisdiction by the California courts permissible.

25 7. Venue in Los Angeles County is proper under California Business & Professions
26 Code section 17203 and California Code of Civil Procedure section 395.5 because a substantial
27 part of Defendants' unlawful conduct, acts, and omissions alleged herein occurred in this County,
28 Defendants had and have ongoing projects in this County, Defendants conduct substantial business

1 in this County, Defendants' liability arose in this County, and/or Defendants reside, transact
2 business, maintain offices, and/or have an agent or agents in this County. The relief requested is
3 within the jurisdiction of this Court.

4 **PARTIES**

5 8. Plaintiff is an individual who resides in Los Angeles County, California. On or about
6 July 13, 2012, Defendants hired Plaintiff as a non-exempt hourly employee. Plaintiff's employment
7 with Defendants ended within one (1) year of the filing of this action. Plaintiff's job duties include,
8 *inter alia*, building set pieces at Defendants' facility; delivering sets to production sites (i.e., the
9 locations where Plaintiff and Class Members were to set up the sets); setting up and taking down
10 the sets at the production sites; storing, recycling, and disposing of set pieces; and obtaining
11 supplies and building materials. Plaintiff worked at Defendants' facility located in Sylmar, in the
12 County of Los Angeles as well as other production sites throughout California.

13 9. Plaintiff is informed, believes and thereon alleges that, at all relevant times, VISION
14 SCENERY CORPORATION, INC. ("VSC") was and is a California corporation. VSC owns and
15 operates a company that is in the business of set construction to be used in the production of
16 television commercials, movies, print work, and trade show booth displays, among other things,
17 for its customers throughout California, including in Los Angeles County. Plaintiff is further
18 informed, believes and thereon alleges that, at all relevant times, VSC regularly conducted and
19 conducts business within the State of California and derives substantial revenues from services
20 performed in California. In addition, Plaintiff is informed, believes and thereon alleges that, at all
21 relevant times, VSC was and is an employer subject to California state wage and hour laws.

22 10. Plaintiff is informed, believes and based thereon alleges that Defendants suffered
23 and permitted Plaintiff and the Class Members to work, and/or jointly exercised control over the
24 wages, hours, and/or working conditions of Plaintiff and the Class Members.

25 11. Defendants continue to employ non-exempt employees within California.

26 12. Plaintiff is unaware of the true names and capacities of those defendants identified
27 as DOES 1 through 50. Therefore, Plaintiff identifies those defendants fictitiously. Plaintiff is
28 informed, believes and thereon alleges that at all relevant times each DOE defendant was a parent,

1 sister, or related corporate entity of defendants, or an owner, employee or agent of defendants, and
2 each related entity, and was acting with the knowledge and authorization of each of the other
3 defendants. Plaintiff will seek to amend this FAC to allege the true names and capacities of each
4 DOE defendant when their names have been ascertained and identified. Plaintiff is informed,
5 believes and thereon alleges that each of the defendants sued as DOES 1 through 50 participated
6 in, received the benefit of, or was in some way responsible for one or more of the wrongful acts
7 and omissions and some portion of the damages alleged herein.

8 13. Plaintiff is informed, believes and thereon alleges that at all times material hereto,
9 each defendant acted in all respects pertinent to this action as the agent of the other defendant,
10 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
11 each defendant are legally attributable to the other defendant. Furthermore, defendants in all
12 respects acted as the employer and/or joint employer of Plaintiff and the Class Members.

13 14. Plaintiff is informed, believes and thereon alleges that defendants, each and all of
14 them, at all times material hereto, were the joint employers, parent companies, successor
15 companies, predecessors in interest, affiliates, agents, employees, servants, joint venturers,
16 directors, fiduciaries, representatives, and/or co-conspirators of each of the remaining defendants.
17 Defendants, unless otherwise alleged, at all times material hereto, performed all acts and omissions
18 alleged herein within the course and scope of said relationship(s), and are a proximate cause of
19 Plaintiff's damages as herein alleged.

20 15. Plaintiff is informed, believes and thereon alleges, that there exists a unity of interest
21 in ownership between Defendants and DOES 1 through 50, inclusive, such that any individuality
22 and separateness between the individual and the corporation does not exist, as Defendants, and
23 DOES 1 through 50, inclusive, are alter egos, in that: (1) Defendants are and at all times mentioned
24 herein were mere shells, instrumentalities and conduits through which DOES 1 through 50,
25 inclusive, carried out their business in the business name, exercising complete control and
26 dominance over such business; (2) that Defendants were conceived, intended and used by DOES 1
27 through 50, inclusive, as devices to avoid individual liability and in place of Defendants, and DOES
28 1 through 50, inclusive, and were without the financial solvency and responsibility required by law;

1 and (3) that all of the assets of the Defendants have been transferred to DOES 1 through 50,
2 inclusive, or some other individual or entity which he or she owns or controls, with the intent to
3 hinder, delay or defraud creditors of Defendants, leaving Defendants with no assets. Further,
4 Plaintiff is informed, believes and thereon alleges, that there exists a principal-agency relationship
5 between and among Defendants.

6 16. At all relevant times herein, Defendants were agents of each other and acting within
7 the course and scope of their agency.

8 **CLASS ACTION ALLEGATIONS AND FACTUAL BACKGROUND**

9 17. Pursuant to California Code of Civil Procedure section 382, Plaintiff brings this
10 action individually and as a class action on behalf of a proposed Class defined as follows:

11 Class:

12 All current and former non-exempt employees employed by Defendants in the State
13 of California within four years prior to the commencement of this action to the date
14 of class certification.

15 18. The Class is also comprised of the following Subclass:

16 Waiting Time Sub-Class:

17 Those members of the Class who separated from their employment with Defendants
18 within three years prior to the commencement of this action to the date of class
19 certification.

20 19. Plaintiff reserves the right pursuant to California Rules of Court, Rule 3.764 and
21 3.765, to amend or modify the respective definitions of the Class and/or Subclasses to provide
22 greater specificity and/or further division into subclasses or limitation to particular issues based on
23 further investigation and discovery.

24 20. This action is brought, and may properly be maintained, as a class action pursuant
25 to California Code of Civil Procedure section 382 because there is a well-defined community of
26 interest in the litigation, and the proposed class is easily ascertainable. This action presents
27 questions of common interest and satisfies the numerosity, commonality, typicality, adequacy,
28 predominance, and superiority requirements of this provision.

1 21. Through this action, Plaintiff alleges Defendants have consistently maintained and
2 enforced against Plaintiff and Class Members unlawful employment practices and policies which
3 violate the Labor Code and IWC Wage Orders.

4 22. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
5 Defendants failed to pay Plaintiff and Class Members all minimum, regular, overtime, and double
6 time wages for all hours worked in violation of the Labor Code and IWC Wage Orders. During the
7 Class Period, Plaintiff and Class Members regularly worked more than eight (8) hours and/or 10
8 hours per workday and/or over 40 hours per workweek. Plaintiff and Class Members also worked
9 over eight (8) hours on the seventh consecutive day of work. Defendants failed to pay Class
10 Members for all hours worked at the proper rates by requiring Class Members to travel back and
11 forth from Defendants' facility to production sites while clocked out for their shifts (i.e., failed to
12 pay for travel time). In addition, Defendants required Plaintiff and Class Members to not clock in
13 for their shifts until their scheduled start times even though they arrived to work before their
14 scheduled start time and were subject to Defendants' control and were suffered or permitted to
15 work before their scheduled start time. Likewise, Defendants required Plaintiff and Class Members
16 to clock out at the end of their scheduled shifts and continue working (e.g., open and close up
17 Defendants' facility while off-the-clock). Similarly, Defendants prohibited Plaintiff and Class
18 Members from clocking in at production sites until the site was ready for the sets to be set up. As
19 such, Plaintiff and Class Members regularly arrived to production sites and waited until the site
20 was ready for set up while off-the-clock. Further, Defendants deducted the time worked by Plaintiff
21 and Class Members and required Plaintiff and Class Members to perform work duties, such as
22 communicate with supervisors and obtain supplies while clocked out for their shifts. Defendants
23 failed to compensate Plaintiff and Class Members for the time they spent working off-the-clock
24 and/or time Defendants deducted from their time worked. In addition, Defendants automatically
25 deducted meal periods even when compliant meal periods were not taken by Plaintiff and Class
26 Members, thereby depriving them of compensation for time spent working during meal periods.
27 Further, Defendants rounded Plaintiff's and Class Members' hours worked, including meal periods,
28 thereby depriving them of compensation for time worked during their shifts. Defendants' rounding

1 practice systematically undercompensated Plaintiff and Class Members and favored the employer
2 rather than the employee. Defendants further enforced their unlawful pay practices by maintaining
3 a practice of retaliating against employees who questioned whether they were paid correctly for all
4 their time worked. As such, Defendants failed to pay Plaintiff and Class Members minimum,
5 regular, overtime, and double time wages for all hours worked, in violation of the Labor Code and
6 applicable IWC Wage Orders.

7 23. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
8 Defendants deprived Plaintiff and Class Members of the opportunity to take all of their statutorily
9 entitled meal periods within the appropriate time intervals or provide compensation in lieu thereof
10 in violation of the Labor Code and IWC Wage Orders. During the Class Period, Defendants failed
11 to provide timely off-duty 30-minute meal periods within the appropriate time intervals to Plaintiff
12 and other Class Members as required by Labor Code section 512 and section 11 of the applicable
13 Wage Order. Specifically, when Plaintiff and Class Members worked outside of Defendants'
14 facility, they frequently had their meal periods shortened, interrupted, late, and/or missed them
15 altogether due to Defendants' practice of prioritizing work demands over taking compliant breaks.
16 Plaintiff and Class Members were also restricted to the production site and Defendants' facility
17 during meal periods. Further, Defendants failed to provide a method for recording meal periods
18 while Plaintiff and Class Members worked outside of Defendants' facility, and automatically
19 deducted meal periods even when compliant meal periods were not taken by Plaintiff and Class
20 Members. When Plaintiff complained that Defendants were deducting meal periods that he had not
21 taken, he was told that he needed to "go, go, go" and that he could eat in the truck while traveling
22 to and from production sites. In addition, Defendants rounded meal periods in violation of
23 California law. Defendants also failed to provide second meal periods when Plaintiff and Class
24 Members worked over 10 hours. Despite these meal period violations and Plaintiff's and Class
25 Members' complaints, Defendants failed to compensate Plaintiff and Class Members with an
26 additional hour of pay at their regular rate for every day in which they suffered a meal period
27 violation. Accordingly, Defendants failed to provide Plaintiff and Class Members with timely,
28 uninterrupted off-duty meal periods for at least 30 minutes when they worked more than five (5)

1 hours and/or 10 hours in a workday, and failed to compensate Plaintiff and Class Members with an
2 additional hour of pay at their regular rate of pay for every day in which they were denied a
3 compliant meal period in violation of the Labor Code and applicable IWC Wage Orders.

4 24. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
5 Defendants failed to permit Plaintiff and Class Members to take all of their statutorily entitled 10-
6 minute rest periods for every four (4) hours worked or major fraction thereof or provide
7 compensation in lieu thereof in violation of the Labor Code and IWC Wage Orders. Specifically,
8 when Plaintiff and Class Members worked outside of Defendants' facility, Plaintiff and Class
9 Members regularly had their rest breaks shortened, interrupted, and/or missed altogether due to
10 Defendants' practice of prioritizing work demands over taking compliant breaks. In addition,
11 Plaintiff and Class Members were not allowed to leave the production site and Defendants' facility
12 during rest breaks. For example, Plaintiff and Class Members were required to miss their rest breaks
13 and quickly set up the set pieces at production sites so that other businesses and contractors, such
14 as electricians, designers, and other workers could add to the set pieces (e.g., add lights, greenery,
15 motors, etc.). Further, when Plaintiff and Class Members worked at Defendants' facility, their rest
16 breaks were interrupted, shortened, and/or missed altogether. Defendants also failed to adopt and
17 implement a practice of providing third rest breaks when Plaintiff and Class Members worked over
18 10 hours. Notwithstanding these rest break violations, Defendants failed to compensate Plaintiff
19 and Class Members with an additional hour of pay at their regular rate for every day in which they
20 suffered a rest period violation. Accordingly, Defendants violated the Labor Code and applicable
21 IWC Wage Orders.

22 25. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
23 Defendants failed to reimburse Plaintiff and Class Members for necessary business expenses
24 incurred in the performance of their duties in violation of the Labor Code and IWC Wage Orders.
25 During the Class Period, Defendants failed to reimburse Plaintiff and Class Members for all
26 business expenses incurred for Defendants' benefit. For example, Plaintiff and Class Members were
27 required to use their personal cellular phones for work purposes, such as communicating with
28 supervisors, downloading and using Exaktime to clock in and out for their shifts, and navigating to

1 production sites using their phone's GPS, without reimbursement for a reasonable portion of their
2 cellular phone bills. Accordingly, Defendants violated the Labor Code and applicable IWC Wage
3 Orders.

4 26. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
5 Defendants willfully failed to timely pay all wages due to Plaintiff and the Waiting Time Subclass
6 upon separation of employment in violation of the Labor Code and IWC Wage Orders. Plaintiff
7 and Waiting Time Subclass Members were not paid all wages (including minimum, regular,
8 overtime, and double time wages), reimbursements, meal period premiums, and/or rest period
9 premiums within the required time period in violation of the Labor Code and applicable IWC Wage
10 Orders.

11 27. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
12 Defendants failed to furnish Plaintiff and Class Members with accurate and complete wage
13 statements in violation of the Labor Code and IWC Wage Orders. Plaintiff and Class Members
14 received wage statements which did not accurately reflect the gross and net wages earned, total
15 hours worked, and all applicable rates of pay and the corresponding number of hours worked at
16 each pay rate, among other things in violation of the Labor Code and IWC Wage Orders.

17 28. Plaintiff is informed, believes, and thereon alleges that Defendants' actions as
18 described throughout this FAC were willful.

19 **NUMEROSITY**

20 29. The Class is so numerous that joinder of all of its members is impracticable. While
21 the exact number and identities of Class Members are unknown to Plaintiff at this time and can
22 only be ascertained through appropriate discovery, Plaintiff is informed, believes and thereon
23 alleges that the Class consists of more than 100 persons.

24 30. A class action is the only available method for the fair and efficient adjudication of
25 this controversy. The members of the Class are so numerous that joinder of all members is
26 impractical, if not impossible. The identity of Class Members can be ascertained by analysis of
27 Defendants' employee and payroll records.

28 **COMMONALITY**

31. Common questions of fact and law exist as to all members of the Class that predominate over any questions affecting only individual Class Members. These common legal and factual questions include, but are not limited to, the following:

(a) Whether Defendants failed to pay Plaintiff and Class Members all minimum, regular, overtime, and double time wages for all hours worked by Plaintiff and Class Members;

(b) Whether Defendants rounded the time worked by Plaintiff and Class Members to Defendants' advantage;

(c) Whether Defendants failed to provide timely, uninterrupted, off-duty 30-minute meal periods to Plaintiff and Class Members without compensation in lieu thereof;

(d) Whether Defendants failed to permit timely, uninterrupted, off-duty 10-minute rest breaks for every four hours or major fraction thereof worked by Plaintiff and Class Members without compensation in lieu thereof;

(e) Whether Defendants failed to timely pay Plaintiff and Waiting Time Subclass Members all wages due either immediately upon termination or within 72 hours after resignation;

(f) Whether Defendants' conduct was willful;

(g) Whether Defendants failed to issue accurate itemized wage statements to Plaintiff and Class Members;

(h) Whether Defendants failed to reimburse Plaintiff and Class Members for necessary business expenditures;

(i) Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code sections 17200 *et seq.*; and

(j) Additional common questions of law and fact that may develop as the litigation progresses.

TYPICALITY

32. Plaintiff is informed, believes, and thereon alleges that Plaintiff's claims are typical of the claims of the Class because: Plaintiff and the Class sustained injuries and damages arising out of and caused by Defendants' unlawful policies and practices; the claims arise out of the same

1 course of conduct by Defendants; Plaintiff's claims are based upon the same legal theories as the
2 claims of the Class; and the legal issues raised under California state law as a result of Defendants'
3 conduct apply equally to Plaintiff and the Class Members.

4 **ADEQUACY OF REPRESENTATION**

5 33. Plaintiff is an adequate representative of the Class, in that his claims (and defenses,
6 if any) are typical of those of the Class. Plaintiff has no conflicts of interest with his fellow Class
7 Members and will be able to fairly and adequately protect the interests of the Class. Plaintiff has
8 the same interests in the litigation of this case as the Class Members; and is committed to vigorous
9 prosecution of this case and has retained competent counsel experienced in class action and wage
10 and hour litigation of this nature.

11 **PREDOMINANCE**

12 34. Defendants have engaged in a common course of wage and hour abuse toward
13 Plaintiff and Class Members. The common issues arising from this conduct that affect Plaintiff and
14 Class Members predominate over any individual issues. Adjudication of these common issues in a
15 single action has important and desirable advantages of judicial economy.

16 **SUPERIORITY OF CLASS ACTION**

17 35. A class action is superior to other available methods for the fair and efficient
18 adjudication of this controversy because individual litigation of the claims of all Class Members is
19 impracticable. Even if every Class Member could afford individual litigation, the court system
20 could not. It would be unduly burdensome to the courts in which individual litigation of numerous
21 cases would proceed. Individualized litigation would also present the potential for varying,
22 inconsistent, or contradictory judgments and would magnify the delay and expense to all parties
23 and to the court system resulting from multiple trials of the same complex factual issues. Moreover,
24 individual actions by Class Members may establish inconsistent standards of conduct for
25 Defendants. By contrast, the conduct of this action as a class action, with respect to some or all of
26 the issues presented herein, presents fewer management difficulties, conserves the resources of the
27 parties and the court system, and protects the rights of each Class Member.

28 36. Defendants have acted or refused to act in respects generally applicable to the Class,

1 thereby making appropriate relief with regard to the members of the Class as a whole, as requested
2 herein.

3 **PUBLIC POLICY CONSIDERATIONS**

4 37. Employers in the State of California violate employment and labor laws every day.
5 Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation.
6 Former employees are fearful of bringing actions because they believe their former employers
7 might damage their future endeavors through negative references and/or other means. Class actions
8 provide Class Members who are not named in the action with a type of anonymity that allows for
9 the vindication of their rights while affording them privacy protections.

10 **FIRST CAUSE OF ACTION**

11 **(FAILURE TO PAY ALL WAGES)**

12 **(Against All Defendants)**

13 38. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
14 fully set forth herein.

15 39. At all relevant times, Defendants had a duty to comply with Labor Code sections
16 204, 206, 510, 1182.12, 1194, 1194.2, 1197, 1198, and the applicable IWC Wage Orders and
17 California Code of Regulations.

18 40. Labor Code section 204 and the IWC Wage Orders require timely payment of all
19 wages owed on regularly scheduled paydays at least twice during each calendar month, on days
20 designated in advance by the employer as the regular paydays. All wages earned in excess of the
21 normal work period must be paid no later than the payday for the next regular payroll period.

22 41. Labor Code section 206 provides that in case of a dispute over wages, the employer
23 shall pay, without condition and promptly under the Labor Code all wages conceded due, leaving
24 to the employee all remedies he/she is otherwise entitled to as to any balance claimed.

25 42. At all times relevant, Labor Code section 510, and applicable sections of the
26 California Code of Regulations and the IWC Wage Orders applied to Plaintiff's work with
27 Defendants and continue to apply to Class Members' employment with Defendants. Labor Code
28 section 510 and applicable provisions of the California Code of Regulations and IWC Wage Orders

1 state that any work performed in excess of eight hours in a workday and/or 40 hours in a workweek
2 must be paid at one and one-half times the employee's regular rate of pay. Any work performed in
3 excess of 12 hours in a workday must be compensated at the rate of no less than twice the regular
4 rate of pay for an employee.

5 43. Labor Code section 1182.12 sets forth the minimum hourly wage that must be paid
6 to all employees in California for all hours worked. Local minimum wage ordinances may provide
7 for higher minimum wage rates that must be paid to employees for all hours worked in those locales
8 where each local ordinance is in effect. Labor Code section 1197 affirms that it is unlawful to pay
9 less than the state or local minimum wage, whichever is higher, for any hour of work.

10 44. Labor Code section 1194 provides that any employee receiving less than the legal
11 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover
12 in a civil action the unpaid balance of the full amount of the minimum wage or overtime
13 compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

14 45. Labor Code section 1194.2 authorizes the recovery of liquidated damages in an
15 amount equal to the wages unlawfully unpaid and interest thereon for unpaid wage violations.

16 46. Labor Code section 1198 prohibits employers from employing for longer hours or
17 less favorable conditions than those set forth in the Labor Code, IWC Wage Orders, or as otherwise
18 set by the Labor Commissioner.

19 47. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
20 Plaintiff and Class Members regularly worked over eight (8) hours, 10 hours per workday, and/or
21 12 hours per workday and/or over 40 hours per workweek. Plaintiff and other Class Members also
22 worked over eight (8) hours on the seventh consecutive day of work.

23 48. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
24 Defendants failed to pay Plaintiff and Class Members all wages for hours worked (including
25 minimum, regular, overtime, and double time wages) by failing to pay for travel time and time
26 spent waiting at production sites, automatically deducting time worked including meal periods
27 when a proper meal period was not taken, rounding time worked including rounding meal periods,
28 and requiring off-the-clock work including during meal periods and before and after their shifts

1 without compensation, among other things.

2 49. As a direct and proximate result of Defendants' unlawful conduct, as set forth
3 herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss
4 of earnings from minimum, regular, overtime, and double time compensation due, in an amount to
5 be established at trial, plus prejudgment interest, attorneys' fees, and costs pursuant to statute.

6 50. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
7 as described herein and below.

8 **SECOND CAUSE OF ACTION**

9 **(FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU**

10 **THEREOF)**

11 **(Against All Defendants)**

12 51. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
13 fully set forth herein.

14 52. At all relevant times, Defendants had a duty to comply with Labor Code sections
15 226.7 and 512, and the applicable IWC Wage Orders and California Code of Regulations.

16 53. Labor Code section 512 and Section 11 of the IWC Wage Orders prohibit an
17 employer from employing any person for a work period of more than 5 hours per day without
18 providing the employee with a meal period of not less than 30 minutes (commencing before the
19 employee's fifth hour of work), except that if the total work period per day is no more than 6 hours,
20 the meal period may be waived by mutual consent of the employer and employee. A second meal
21 period of not less than 30 minutes is required if an employee works more than 10 hours per day and
22 must begin before the employee's tenth hour of work, except if the total hours worked is no more
23 than 12 hours, the second meal period may be waived by mutual consent of the employer and
24 employee, but only if the first meal period was not waived.

25 54. Section 11 of the applicable IWC Wage Orders state that "[u]nless the employee is
26 relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on
27 duty' meal period and counted as time worked."

28 55. Labor Code section 226.7(b) and the IWC Wage Orders prohibit an employer from

1 requiring any employee to work during a meal period mandated by any California statute,
2 regulation, standard or order. If an employer fails to provide an employee with a meal period in
3 accordance with state law, Labor Code section 226.7(c) and the IWC Wage Orders require that the
4 employer pay the employee one additional hour of pay at the employee's regular rate of
5 compensation for each workday that the meal period is noncompliant.

6 56. Throughout the Class Period, Plaintiff and Class Members did not receive compliant
7 meal periods when working more than five (5) hours and/or 10 hours per workday because their
8 first and second meal periods were missed, late, interrupted, short, and/or not free of all duties. In
9 addition, Defendants rounded Plaintiff's and Class Members' meal periods and meal periods were
10 restricted to the worksite.

11 57. During the Class Period, Defendants failed to pay Plaintiff and Class Members meal
12 period premiums for noncompliant meal periods pursuant to Labor Code section 226.7(b) and the
13 applicable IWC Wage Order and California Code of Regulations.

14 58. Plaintiff is informed, believes, and thereon alleges that Class Members did not
15 voluntarily waive their meal periods.

16 59. As a direct and proximate result of Defendants' unlawful conduct, as set forth
17 herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss
18 of premium pay for meal period violations and earnings, in an amount to be established at trial, plus
19 prejudgment interest pursuant to statute. To the extent such unpaid premiums or meal period
20 violations are deemed unpaid wages, Plaintiff will also seek attorneys' fees and costs pursuant to
21 statute.

22 60. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
23 as described herein and below.

24 **THIRD CAUSE OF ACTION**

25 **(FAILURE TO PERMIT REST PERIODS OR PROVIDE COMPENSATION IN LIEU**
26 **THEREOF)**

27 **(Against All Defendants)**

28 61. Plaintiff incorporates by reference all previous paragraphs of this FAC as though

1 fully set forth herein.

2 62. At all relevant times, Defendants had a duty to comply with Labor Code section
3 226.7 and the applicable IWC Wage Orders and California Code of Regulations.

4 63. Labor Code section 226.7(a) states “No employer shall require any employee to
5 work during any meal or rest period mandated by an applicable order of the Industrial Welfare
6 Commission.”

7 64. Section 12 of the applicable IWC Wage Order provides in relevant part that:

8 (A) Every employer shall authorize and permit all employees to
9 take rest periods, which insofar as practicable shall be in the middle
10 of each work period. The authorized rest period time shall be based
11 on the total hours worked daily at the rate of ten (10) minutes net rest
12 time per four (4) hours or major fraction thereof. However, a rest
13 period need not be authorized for employees whose total daily work
time is less than three and one-half (3 1/2) hours. Authorized rest
period time shall be counted as hours worked for which there shall be
no deduction from wages.

14 (B) If an employer fails to provide an employee a rest period in
15 accordance with the applicable provisions of this order, the employer
16 shall pay the employee one (1) hour of pay at the employee’s regular
rate of compensation for each work day that the rest period is not
provided.

17 65. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
18 Plaintiff and Class Members worked in excess of three-and-a-half (3.5) hours, six (6) hours, and/or
19 10 hours per workday.

20 66. During the Class Period, Plaintiff and Class Members did not receive compliant 10-
21 minute rest periods for every four hours worked or major fraction thereof because rest breaks were
22 missed, interrupted, shortened, restricted to the worksite, and/or not free of all duties.

23 67. During the Class Period, Defendants failed to pay Plaintiff and Class Members rest
24 period premiums for noncompliant rest periods pursuant to Labor Code section 226.7(b) and the
25 applicable IWC Wage Order.

26 68. As a direct and proximate result of Defendants’ unlawful conduct, as set forth
27 herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss
28 of earnings, in an amount to be established at trial plus prejudgment interest pursuant to statute. To

1 the extent such unpaid premiums or rest period violations are deemed unpaid wages, Plaintiff will
2 also seek attorneys' fees and costs pursuant to statute.

3 69. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
4 as described herein and below.

5 **FOURTH CAUSE OF ACTION**

6 **(FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS)**

7 **(Against All Defendants)**

8 70. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
9 fully set forth herein.

10 71. At all relevant times, Defendants had a duty to comply with Labor Code section 226
11 and the applicable IWC Wage Orders and California Code of Regulations.

12 72. Labor Code section 226(a) requires that, semimonthly or at the time of each payment
13 of wages, employers must furnish each employee with an accurate itemized wage statement in
14 writing that accurately shows (1) gross wages earned, (2) total number of hours worked, (3) the
15 number of any piece-rate units earned and all applicable piece rates, (4) all deductions made from
16 wages, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name and last four
17 digits or employment identification number of the employee, (8) the name and address of the legal
18 entity that is the employer, and (9) all applicable hourly rates in effect and the corresponding
19 number of hours worked at each hourly rate.

20 73. Labor Code section 226(e)(1) authorizes an employee suffering injury as a result of
21 a knowing and intentional failure by an employer to provide an accurate itemized wage statement
22 to recover the greater of all actual damages or \$50 for the initial pay violation and \$100 for each
23 violation in a subsequent pay period, not to exceed an aggregate penalty of \$4,000 per employee,
24 in addition to an award of costs and attorneys' fees.

25 74. Section 7 of the IWC Wage Orders requires Defendants to maintain time records
26 showing, among other things, when the employee begins and ends each work period, meal periods
27 taken, and total daily hours worked in an itemized wage statement, and must show all deductions
28 and reimbursements from payment of wages, and accurately report total hours worked by Plaintiff

1 and Class Members. Plaintiff is informed, believes, and thereon alleges that Defendants have
2 knowingly and intentionally failed to comply with the IWC Wage Orders.

3 75. Throughout the Class Period, Defendants provided wage statements that did not
4 accurately reflect the total number of hours worked by Plaintiff and Class Members at each
5 corresponding pay rate, and the gross and net wages earned, among other things, making it difficult
6 for Plaintiff and Class Members to determine whether they were paid correctly for all hours worked,
7 which deductions were made, and the extent of any underpayment. Plaintiff has had to file this
8 lawsuit in order to determine the extent of the underpayment of wages, thereby causing Plaintiff to
9 incur expenses and lost time. Plaintiff would not have had to engage in these efforts and incur these
10 costs had Defendants provided the accurate wages earned. This has also delayed Plaintiff's ability
11 to demand and recover the underpayment of wages from Defendants. Defendants' violations of
12 Labor Code section 226(a) prevented Plaintiff and Class Members from knowing, understanding
13 and disputing the wages paid to them, and resulted in an unjustified economic enrichment to
14 Defendants.

15 76. Defendants knowingly and intentionally failed to provide accurate, itemized wage
16 statements to Plaintiff and Class Members, and as such Plaintiff and Class Members are deemed to
17 have suffered injury in accordance with Labor Code section 226. Plaintiff and the Class are
18 therefore entitled to the damages and penalties provided for under Labor Code section 226(e).

19 77. Plaintiff and Class Members are also entitled to injunctive relief under Labor Code
20 section 226(h), compelling Defendants to comply with Labor Code section 226, and seek the
21 recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

22 78. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
23 as described herein and below.

24 **FIFTH CAUSE OF ACTION**

25 **(WAITING TIME PENALTIES)**

26 **(Against All Defendants)**

27 79. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
28 fully set forth herein.

1 80. At all relevant times, Defendants had a duty to comply with Labor Code
2 sections 201, 202, and 203, and the applicable IWC Wage Orders and California Code of
3 Regulations. Defendants failed to comply with these final paycheck requirements with respect to
4 Plaintiff and Waiting Time Subclass Members.

5 81. Labor Code section 201 requires that if an employer discharges an employee, the
6 wages earned and unpaid at the time of discharge are due and payable immediately.

7 82. Labor Code section 202 requires that if “an employee not having a written contract
8 for a definite period” quits, the employee’s wages shall become due and payable no later than
9 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention
10 to quit, in which case the employee is entitled to his or her wages at the time of quitting.

11 83. Labor Code section 203 provides that if an employer willfully fails to pay, without
12 abatement or reduction, any wages of an employee who is discharged or quits, the wages of the
13 employee shall continue as a penalty from the due date thereof at the same rate until paid or until
14 an action therefor is commenced, but that the wages shall not continue for more than 30 days per
15 employee.

16 84. Plaintiff is informed, believes, and thereon alleges, that at all relevant times,
17 Defendants willfully failed to timely pay Plaintiff and Waiting Time Subclass Members all of their
18 unpaid wages earned, including, but not limited to, minimum, regular, overtime, and double time
19 wages, compensation for non-compliant meal periods and rest periods, and unpaid expense
20 reimbursements upon separation of employment. Plaintiff and Waiting Time Subclass Members
21 are entitled to timely compensation upon separation of their employment for any outstanding
22 unpaid wages, reimbursements, and premiums but to date have not received such compensation
23 from Defendants, therefore entitling them to penalties pursuant to Labor Code section 203.

24 85. As a consequence of Defendants’ willful conduct in failing to pay all earned wages,
25 Plaintiff and Waiting Time Subclass Members are entitled to up to 30 days’ wages as a penalty for
26 Defendants’ failure to timely pay wages upon separation of employment, in addition to prejudgment
27 interest, attorneys’ fees, and costs in amounts that will be established at trial.

28 86. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief

as described herein and below.

SIXTH CAUSE OF ACTION

(FAILURE TO REIMBURSE BUSINESS EXPENSES)

(Against All Defendants)

87. Plaintiff incorporates by reference all previous paragraphs of this FAC as though fully set forth herein.

88. At all relevant times, Defendants had a duty to comply with Labor Code sections 2800 and 2802 and the applicable IWC Wage Orders and California Code of Regulations.

89. Labor Code section 2800 requires employers to indemnify employees for losses caused by the employer's want of ordinary care. To the extent Defendants claim that Plaintiff and Class Members failed to request, demand, notify or otherwise seek reimbursement for their expenses and losses, Defendants were obligated to nevertheless indemnify Plaintiff and Class Members due to their own negligence.

90. Labor Code section 2802(a) requires that employers indemnify and reimburse employees for all business expenses, which are defined as all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of the employee's duties or otherwise incurred based on the employee's obedience to the employer's directions. Labor Code section 2802(b) authorizes employees to recover in a court action interest which shall accrue from the date on which the employee incurred the necessary expenditure or loss. Labor Code section 2802(c) authorizes employees, who to enforce their right to reimbursements under Labor Code section 2802, to also recover attorneys' fees and costs.

91. During the Class Period, Plaintiff and Class Members were required to use their personal cellular phones for work purposes, such as communicating with supervisors, downloading and using Exakttime to clock in and out for their shifts, and navigating to production sites using their phone's GPS, without reimbursement for a reasonable portion of their cellular phone bills.

92. Defendants have unfairly and unlawfully violated Labor Code sections 2800 and 2802, and the applicable IWC Wage Orders by failing to reimburse Plaintiff and Class Members for all of their out-of-pocket business expenses incurred in the discharge of their job duties.

1 93. As a consequence of Defendants' willful conduct, Plaintiff and Class Members have
2 sustained damages for unreimbursed out-of-pocket business expenses, due in an amount to be
3 established at trial, plus prejudgment interest, attorney's fees, and costs pursuant to statute.

4 94. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
5 as described herein and below.

6 **SEVENTH CAUSE OF ACTION**
7 **(UNFAIR BUSINESS PRACTICES)**
8 **(Against All Defendants)**

9 95. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
10 fully set forth herein.

11 96. California Business & Professions Code Section 17200, *et seq.* prohibits unfair
12 competition by prohibiting unlawful, unfair, or fraudulent business practices or acts.

13 97. Defendants' conduct, as alleged herein, has been and continues to be unfair,
14 unlawful and harmful to Plaintiff, Class Members, and Defendants' competitors. Plaintiff seeks to
15 enforce important rights affecting the public interest within the meaning of California Code of Civil
16 Procedure section 1021.5.

17 98. Defendants' activities, as alleged herein, violate California law and constitute
18 unlawful business acts or practices in violation of California Business and Professions Code
19 sections 17200, *et seq.*

20 99. A violation of Business and Professions Code sections 17200, *et seq.* may be
21 predicated on the violation of any state or federal law.

22 100. Plaintiff brings this action on behalf of himself and all members of the general
23 public, including the Class Members, pursuant to the UCL. Defendants' conduct alleged below
24 constitutes false, fraudulent, unlawful, unfair, and/or deceptive business practices, in violation of
25 the UCL. Defendants' policies and practices have violated state law in at least the following
26 respects:

27 (a) Failing to pay all minimum, regular, overtime, and double time wages due
28 to Plaintiff and Class Members in violation of Labor Code sections 204, 206, 510, 1182.12, 1194,

1 1194.2, 1197, and 1198;

2 (b) Failing to provide compliant meal periods or compensation in lieu thereof in
3 violation of Labor Code sections 226.7 and 512;

4 (c) Failing to authorize or permit rest breaks or provide compensation in lieu
5 thereof in violation of Labor Code section 226.7;

6 (d) Intentionally failing to provide Plaintiff and Class Members with accurate
7 itemized wage statements in violation of Labor Code section 226;

8 (e) Failing to timely pay all earned wages to Plaintiff and Waiting Time
9 Subclass Members upon separation of employment in violation of Labor Code sections 201, 202,
10 and 203;

11 (f) Failing to reimburse Plaintiff and Class Members all necessary business
12 expenses in violation of Labor Code sections 2800 and 2802; and

13 (g) Violations of the IWC Wage Orders for the same conduct above.

14 101. Defendants' course of conduct, acts, and practices in violation of California law
15 mentioned above each constitute a separate and independent violation of the UCL. Defendants'
16 conduct described herein violates the policy or spirit of such laws or otherwise significantly
17 threatens or harms competition. The substantial harm to Plaintiff and Class Members in being
18 wrongfully denied earned wages, meal and rest periods, premium pay, and reimbursements
19 outweighs the utility, if any, of Defendants' policies or practices and, therefore, Defendants' actions
20 described herein constitute an unfair business practices or acts within the meaning of the UCL.

21 102. Plaintiff further brings this cause of action on behalf of the proposed Class, seeking
22 statutory and injunctive relief to stop the misconduct of Defendants, as complained herein, and to
23 compel restitution and disgorgement of all profits (i.e., unpaid wages, reimbursements, and
24 premiums, etc.) obtained by Defendants through the unfair and unlawful business practices
25 described herein pursuant to, *inter alia*, Business and Professions Code sections 17202, 17203, and
26 17208. Under the circumstances alleged, it would be inequitable and result in a miscarriage of
27 justice for Defendants to continue to retain the property of Plaintiff and Class Members.

28 103. Defendants' failure to adopt and implement policies in accordance with and/or

1 adhere to these laws, all of which are binding upon and burdensome to Defendants' competitors,
2 engenders an unfair competitive advantage for Defendants against its competitors, thereby
3 constituting an unfair business practice, as set forth in the UCL.

4 104. Pursuant to California Business and Professions Code section 17203, as a direct and
5 proximate result of the unfair business practices of Defendants, Plaintiff, individually, and on behalf
6 of all employees similarly situated, is entitled to equitable and injunctive relief, against such
7 unlawful practices in order to prevent future damage, for which there is no adequate remedy at law,
8 and to avoid a multiplicity of lawsuits. Plaintiff also seeks an order enjoining Defendants to cease
9 and desist from engaging in the practices described herein.

10 105. Plaintiff and Class Members also request any other such legal and equitable relief
11 from Defendants' unlawful and willful conduct as the Court deems just and proper, including an
12 injunction prohibiting Defendants from engaging in the unfair, unlawful, and/or fraudulent
13 practices alleged in this FAC.

14 106. As a result of Defendants' unlawful and unfair business practices, Plaintiff and Class
15 Members are entitled to and seek other appropriate relief available under California Business &
16 Professions Code sections 17200 *et seq.* Plaintiff, on behalf of himself and the Class, also seeks
17 recovery of attorneys' fees and costs of this action to be paid by Defendants as provided by
18 California Code of Civil Procedure section 1021.5.

19 107. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
20 as described herein and below.

21 **EIGHTH CAUSE OF ACTION**

22 **(VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004)**

23 **(Against All Defendants)**

24 108. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
25 though fully set forth herein.

26 109. Under Labor Code section 2699.3(a), a plaintiff may bring a cause of action under
27 PAGA only after giving the LWDA and the employer notice of the Labor Code sections alleged
28

1 to have been violated, and after receiving notice from the LWDA of its intention not to investigate
2 or after 65 days have passed without notice from the LWDA.

3 110. On September 25, 2021, Plaintiff gave written notice of the specified provisions
4 alleged to have been violated, including the facts and theories to support the alleged violations, as
5 required by Labor Code section 2699.3. This written notice was provided via certified mail to
6 Defendants and to the LWDA by electronically filing the notice via the Department of Industrial
7 Relations' website. More than 65 days has passed since Plaintiff submitted his PAGA notice to the
8 LWDA without notice from the LWDA. Accordingly, Plaintiff may amend his Complaint to add a
9 PAGA cause of action.

10 111. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that
11 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,
12 divisions, commissions, boards, agencies or employees for violation of the code may, as an
13 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
14 himself and other current or former employees pursuant to the procedures specified in Labor Code
15 section 2699.3.

16 112. For all provisions of the Labor Code except those for which a civil penalty is
17 specifically provided, Labor Code section 2699(f) imposes upon Defendants a penalty of one
18 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and
19 two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent
20 pay period in which Defendants violated these provisions of the Labor Code.

21 113. Defendants' conduct violates numerous Labor Code sections, including, but not
22 limited to, the following:

23 (a) Violation of Labor Code sections 201-204, 206, 210, 510, 558, 1194, 1197,
24 1197.1, and 1198 for failure to timely pay all earned wages (including minimum, regular, overtime,
25 and double time wages) owed to Plaintiff and other aggrieved employees during employment and
26 upon separation of employment as herein alleged;

27 (b) Violation of Labor Code sections 226.7 and 512 for failure to provide meal
28 periods to Plaintiff and other aggrieved employees and failure to pay premium wages for missed

1 meal periods as herein alleged;

2 (c) Violation of Labor Code sections 226.7 for failure to permit rest breaks to
3 Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods
4 as herein alleged;

5 (d) Violation of Labor Code sections 226 and 226.3 for failure to provide
6 accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;

7 (e) Violation of Labor Code sections 1174 and 1174.5 for failure to maintain
8 accurate records regarding the employment of Plaintiff and other aggrieved employees as herein
9 alleged; and

10 (f) Violation of Labor Code section 2800 and 2802 for failure to reimburse
11 Plaintiff and other aggrieved employees for business expenses.

12 114. Labor Code Section 226.3 provides: “[a]ny employer who violates subdivision (a)
13 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
14 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
15 each violation in a subsequent citation, for which the employer fails to provide the employee a
16 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.
17 The civil penalties provided for in this section are in addition to any other penalty provided by law.”

18 115. Further, Labor Code section 558(a) provides “[a]ny employer or other person acting
19 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
20 provision regulating hours and days of work in any order of the Industrial Welfare Commission
21 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
22 underpaid employee for each pay period for which the employee was underpaid . . . (2) For each
23 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period
24 for which the employee was underpaid.”

25 116. Labor Code Section 1174.5 provides a \$500 penalty for an employer’s failure to
26 maintain accurate and complete payroll records showing the hours worked daily by and the wages
27 paid to employees.

117. Labor Code section 1197.1 also provides “[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty . . . as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid . . . (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

118. As set forth above, Defendants have violated numerous provisions of the Labor Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiff also seeks the civil penalties set forth in Labor Code sections 558 and 1197.1 for himself, the underpaid employees, and the State of California.

119. Plaintiff is an “aggrieved employee” because he was employed by the alleged violators and had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of all other aggrieved employees.

120. Plaintiff has exhausted the procedural requirements under Labor Code section 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under the PAGA.

121. Pursuant to Labor Code sections 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

122. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself, the proposed Class, the aggrieved employees, and the State of California, prays for judgment and the following specific relief against Defendants, jointly and severally, as follows:

- 1 1. That the Court certify the proposed Class and Subclasses, and any other class or
- 2 subclasses as appropriate under California Code of Civil Procedure section 382;
- 3 2. That Plaintiff be appointed as the Class Representative;
- 4 3. That the Law Office of Daniel J. Hyun and Alami Law Group be appointed as Class
- 5 Counsel for all purposes;
- 6 4. For compensatory damages in an amount according to proof with interest thereon;
- 7 5. For such general, economic, and/or special damages in an amount according to proof
- 8 with interest thereon;
- 9 6. For damages, monetary relief, wages, premiums, reimbursements, benefits and
- 10 penalties, including interest thereon;
- 11 7. For waiting time penalties pursuant to Labor Code section 203;
- 12 8. For statutory penalties to the extent permitted by law, including those pursuant to
- 13 the Labor Code and IWC Wage Orders;
- 14 9. For the amounts provided for in Labor Code section 226.7;
- 15 10. For attorney's fees, costs of suit, including expert fees, and interest pursuant to
- 16 Labor Code sections 218.6, 226, 1194, 2802, 2698 *et seq.* and California Code of Civil Procedure
- 17 section 1021.5;
- 18 11. For restitution to Plaintiff and Class Members of all money and property unlawfully
- 19 acquired by Defendants through unfair or unlawful business practices pursuant to Business and
- 20 Professions Code sections 17200 *et seq.*;
- 21 12. For an order requiring Defendants to restore and disgorge all funds to each employee
- 22 acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent
- 23 and, therefore, constituting unfair competition under Business and Professions Code sections
- 24 17200, *et seq.*;
- 25 13. For liquidated damages pursuant to Labor Code section 1194.2;
- 26 14. For permanent injunctive relief described in the UCL cause of action;
- 27 15. For prejudgment interest on all sums recovered pursuant to Labor Code
- 28 section 218.6, California Civil Code sections 3287 and 3289, and applicable law;

1 16. For post judgment interest on all amounts awarded to Plaintiff and Class Members
2 as provided by law;

3 17. A declaratory judgment that the practices complained of herein are unlawful under
4 California law;

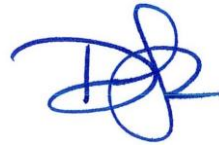
5 18. Such other equitable relief as the Court may deem proper;

6 19. For PAGA penalties; and

7 20. An award of such other and further relief as this Court may deem appropriate.

8
9 Dated: February 24, 2022

LAW OFFICE OF DANIEL J. HYUN/
ALAMI LAW GROUP



11
12 By: _____

13 Daniel J. Hyun
14 David Alami

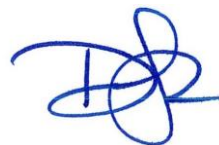
15 Attorneys for Plaintiff EDGARDO ARELLANO
16
17
18

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.
21

22 Dated: February 24, 2022

LAW OFFICE OF DANIEL J. HYUN/
ALAMI LAW GROUP



24
25 By: _____

26 Daniel J. Hyun
27 David Alami

28 Attorneys for Plaintiff EDGARDO ARELLANO

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PROOF OF SERVICE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 1100 W. Town & Country Rd., Ste 1250, Orange, CA 92868. On February 24, 2022, I served the foregoing documents:

• FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on all interested parties in this action as follows:

** SEE ATTACHED SERVICE LIST **

[X] (BYE-MAIL) In accordance with the Judicial Council's emergency orders requiring electronic service during the COVID-19 pandemic and/or service agreement between the parties in this action, I transmitted a true and copy of this document(s), in pdf. and/or word format by electronic mail to the electronic mail address(es) listed below for each addressee, and received no reply messages indicating delivery failure.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 24, 2022, at Irvine, California.



Daniel J. Hyun

Service List

Michael C. Murphy, Esq.

Michael@murphlaw.net

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Michael.jr@murphlaw.net

LAW OFFICES OF MICHAEL C. MURPHY

Attorneys for Defendant Vision Scenery Corporation, Inc.