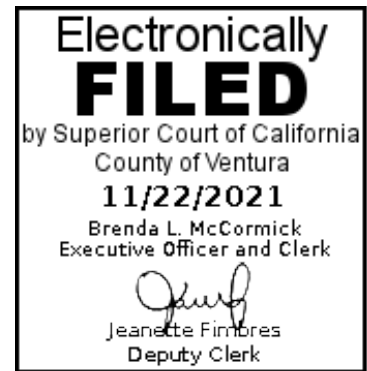


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For Plaintiff, Ricardo Bocanegra



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA**

RICARDO BOCANEGRA, individually and
on behalf of others similarly situated,

Plaintiff,

v.

**GRIMES ROCK, INC; RUSSELL
COCHRAN; LINDA COCHRAN; ROBERT
LYNCH; LaVERNE LYNCH; and DOES 1-
50,**

Defendants.

Unlimited Jurisdiction

Case No.: 56-2021-00560399-CU-OE-VTA

Class Action

COMPLAINT FOR:

1. Failure to Pay All Wages Due Each Pay Period;
2. Failure to Pay Overtime Wages;
3. Failure to Pay All Wages Owed Upon Termination;
4. Failure to Furnish Accurate Wage Statements;
5. Failure to Provide Adequate Meal Periods;
6. Failure to Provide Adequate Paid Rest Breaks;
7. Failure to Pay All Accrued Vacation Wages Upon Separation From Employment;
8. Unfair Business Practices;
9. PAGA Enforcement Action.

JURY TRIAL DEMANDED

Comes now Plaintiff Ricardo Bocanegra on behalf of himself and others similarly situated and other aggrieved employees and complains as follows:

COMPLAINT

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INTRODUCTION

1. This lawsuit seeks to recover damages and penalties for illegal working conditions and compensation practices, as well as restitution for ill-gotten gains. Plaintiff Ricardo Bocanegra brings this class action lawsuit on behalf of himself and others similarly situated, as well as this enforcement action pursuant to the Private Attorneys General Act of 2004 on behalf of himself and other aggrieved employees.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under Article 6 of the California Constitution and California Code of Civil Procedure section 410.10.

3. This Court has jurisdiction over Plaintiff’s and Class Members’ claims for unpaid wages pursuant to California Labor Code sections 204, 218, 1194 and 1194.2, waiting time penalties under Labor Code section 203, meal period and rest break premiums pursuant to Labor Code sections 226.7 and 512, and claims for improper wage statements under Labor Code section 226. This Court has jurisdiction over claims against Defendants Russell Cochran, Linda Cochran, Robert Lynch, and LaVerne Lynch (collectively “OWNERS”) pursuant to Labor Code sections 558 and 558.1.

4. This Court has jurisdiction over Plaintiff’s and the Class Members’ claims for injunctive relief, and restitution of unpaid wages and other ill-gotten benefits arising from Defendant’s unlawful and/or unfair business practices pursuant to Business & Professions Code sections 17200 *et seq.* This Court has jurisdiction over Plaintiff’s enforcement action pursuant to Labor Code section 2698 *et seq.*

5. Venue is proper in this judicial district pursuant to California Code of Civil Procedure section 395.5 because the acts, conduct, omissions, and events alleged herein, occurred in part as to a large portion of the class members, in this county, where Defendant Grimes Rock, Inc. maintains its principal place of business.

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PARTIES

6. Plaintiff Ricardo Bocanegra is a California resident. At all times relevant hereto, Defendant Grimes Rock, Inc. employed Plaintiff at its facility in Ventura, California. Plaintiff worked for Grimes Rock, Inc. from approximately September 2013 through approximately December 15, 2016. Prior to direct employment by Grimes Rock, Inc., Plaintiff worked for a staffing company that placed Plaintiff at Grimes Rock, Inc.’s Ventura facility.

7. Defendant Grimes Rock, Inc. (hereinafter “Grimes”) is a California corporation with its principal place of business in Ventura County in the state of California. Plaintiff is informed and believes that Grimes mines mineral ore for the production of concrete and other building materials. Grimes employed Plaintiff as a non-exempt employee at its facility in Ventura, California.

8. Plaintiff is informed and believes that Defendants Russell Cochran, Linda Cochran, Robert Lynch, and LaVerne Lynch (“OWNERS”) are the owners, directors, officers, or managing agents of Defendant Grimes. OWNERS operate Grimes within Ventura County. Plaintiff alleges that OWNERS are or were at relevant times the employers or other persons acting on behalf of an employer, who violated, or caused to be violated, provisions regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violated, or causes to be violated, Labor Code sections 203, 204, 226, 226.7, 510, 512, and 1194. Plaintiff alleges that OWNERS are liable for the damages, penalties, and other equitable relief requested by Plaintiff pursuant to Labor Code sections 558 and 558.1.

9. Plaintiff is informed an believes that DOES 1 through 50 are corporations, individuals, limited liability partnerships, limited liability companies, general partnerships, sole proprietorships or are other business entities or organizations of a nature not currently known to Plaintiff.

10. Plaintiff is unaware of the true names of Defendants DOES 1 through 50. Plaintiff sues said defendants by said fictitious name, and will amend this complaint when the true names and capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously

1 named Defendants is in some manner responsible for the events and allegations set forth in this
2 complaint.

3 11. Plaintiff is informed and believes, and based thereon alleges that at all relevant
4 times, each Defendant was an employer, was the principal, agent, partner, joint venture, officer,
5 director, controlling shareholder, subsidiary affiliate, parent corporation, successor in interest
6 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some
7 or all of the other Defendants in a joint enterprise for profit and bore such other relationships to
8 some or all of the other Defendants so as to be liable for their conduct with respect to the matters
9 alleged in this complaint. Plaintiff is further informed and believes and thereon alleges that each
10 Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all
11 relevant times, each Defendant knew or should have known about, authorized, ratified, adopted,
12 approved, controlled, aided and abetted the conduct of all other Defendants. As used in this
13 complaint "Defendant" means "Defendants and each of them." and refers to Defendant Grimes,
14 Defendant Russell Cochran, Defendant Linda Cochran, Defendant Robert Lynch, Defendant
15 LaVerne Lynch, and DOES 1 through 50.

16 12. At all times mentioned herein, each Defendant was the co-conspirator, agent,
17 servant, employee, and/or joint venture of each of the other Defendants and was acting within the
18 course and scope of said conspiracy, agency, employment, and/or joint venture and with the
19 permission and consent and knowledge of each of the other Defendants.

20 13. Plaintiff makes the allegations in this complaint without any admission that, as to
21 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading, and
22 Plaintiff reserves all of Plaintiff's rights to plead in the alternative.

23
24 **FACTS COMMON TO ALL CAUSES OF ACTION**

25 14. During the relevant liability periods, GRIMES employed Plaintiff and similarly
26 situated current and former employees of GRIMES within the state of California subject to the
27 requirements of the California Labor Code and Industrial Welfare Commission Wage Order No.
28 16-2001 ("Wage Order").

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1 15. At all times during the relevant liability period, Plaintiff and other similarly situated
2 employees of GRIMES earned regular wages and vacation wages.

3 16. At all times during the relevant liability period, GRIMES maintained a policy
4 whereby it did not provide the legally required number of paid rest breaks to its hourly, nonexempt
5 employees who worked for a work period of more than ten hours in any day. Namely, GRIMES
6 provided its employees with no more than two rest breaks per day without regard for the total hours
7 under the control of the employer or suffered or permitted to work.

8 17. At all times during the relevant liability period, GRIMES maintained a policy
9 whereby it did not provide the legally required number of meal periods to employees who worked
10 in excess of ten hours in a day without a valid waiver of the second meal period, or twelve hours
11 in a day.

12 18. At all times during the relevant liability period, GRIMES discouraged employees
13 from taking unpaid meal periods free from all control of the employer encouraged its employees
14 to remain on the premises under the watch of their supervisors.

15 19. At all times during the relevant liability period, GRIMES required employees to
16 coordinate meal periods with supervisors, which occasionally resulted in meal periods beginning
17 after the start of the sixth hour of work, and with supervisors conspiring with Grimes owners,
18 directors, officers and managers to present fraudulent records to the contrary.

19 20. Plaintiff is informed and believes that Defendant's meal break policies, and rest
20 break policies resulted in GRIMES failing to pay all wages earned each pay period and GRIMES's
21 failure to provide accurate wage statements to its employees.

22 21. At all times during the relevant liability period, upon termination of employment,
23 GRIMES failed to pay Plaintiff and similarly situated employees for vacation wages accrued
24 during the period following the close of the pay period preceding termination up until the date of
25 termination. Further, Plaintiff is informed and believes, and thereon alleges that Defendants
26 maintained a policy for vesting of vacation wages that required a condition precedent to said
27 vacation wages vesting and thereby resulted in forfeiture of earned wages pursuant to Labor Code
28 section 227.3.

22. Plaintiff is informed and believes, and thereon alleges that at all times during the relevant liability period, GRIMES failed to accurately maintain records of accrued vacation wages and failed to properly accrue earned vacation wages, thereby resulting in underpayment of earned vacation wages upon separation from employment.

23. At all times during the relevant liability period, Defendants issued wage statements to their employees that failed to state all gross wages earned and net wages earned.

24. At all times during the relevant liability period, Defendants failed to pay their former employees all wages earned as required by Labor Code sections 201 and 202.

25. At all times during the liability period, Defendants required Plaintiff and others similarly situated to work seven consecutive days without one day's rest in seven.

CLASS DEFINITIONS AND CLASS ALLEGATIONS

26. Plaintiff brings causes of action Nos. One through Eight on behalf of himself and all others similarly situated as a member of classes defined as follows:

Working Conditions Class: All current and former hourly paid employees of Grimes Rock, Inc. ("GRIMES") who worked for GRIMES within California at any time beginning March 6, 2017, through the date notice is mailed to the Working Conditions Class.

Former Employee Class: All former hourly paid employees of GRIMES who worked at who worked for GRIMES within California at any time beginning March 6, 2018, through the date notice is mailed to the Former Employee Class.

Wage Statement Class: All current and former hourly employees of GRIMES whose employment with GRIMES included any period of time during the period beginning March 6, 2020, through the date notice is mailed to the Wage Statement Class.

27. Plaintiff brings this action, and may maintain this action, as a class action pursuant to the provisions of California Code of Civil Procedure section 382 and other applicable law.

28. **Numerosity of the Class:** Members of the Classes are so numerous that their individual joinder is impracticable. Plaintiff estimates that there are no less than 50 persons in each of the Classes. The precise number of members of the Classes and their addresses are unknown to Plaintiff. However, Plaintiff is informed and believes that the number can be obtained

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1 from Defendants’ records. Members of the classes may be notified of the pendency of this action
2 by conventional mail, electronic mail, the Internet, or published notice.

3 29. **Predominance of Common Questions of Fact and Law:** Common questions of
4 law and fact exist as to all members of the Class. These questions predominate over any questions
5 effecting only individual members of the class. These common factual and legal questions include:

- 6 a. Whether GRIMES failed to provide its hourly paid, nonexempt employees with
7 uninterrupted meal periods prior to the start of the sixth hour of work;
- 8 b. Whether GRIMES made available to its hourly paid, nonexempt employees the
9 proper number of meal periods for the length of shift worked;
- 10 c. Whether GRIMES made available to its hourly paid, nonexempt employees the
11 proper number of paid rest breaks for the length of shift worked;
- 12 d. Whether GRIMES paid its hourly employees a wage of two times their regular rate
13 of pay for all hours worked in excess of twelve hours in a day;
- 14 e. Whether GRIMES failed to provide former employees of the all wages owed at the
15 time of the cessation of the employee-employer relationship;
- 16 f. Whether failing to provide all vacation wages earned at the cessation of the
17 employment relationship gives rise to continuation wages pursuant to Labor Code
18 section 203;
- 19 g. Whether Defendants committed unlawful business practices or acts within the
20 meaning of Business & Professions Code sections 17200 *et seq.*;
- 21 h. Whether GRIMES’s omission on wage statements of wages owed for noncompliant
22 meal periods or rest breaks constitutes a violation of Labor Code § 226;
- 23 i. Whether Defendant failed to pay minimum wages as required by the law for all
24 hours worked;
- 25 j. Whether Defendant failed to pay members of the Working Conditions Class for all
26 time worked by suffering and permitting them to perform work for which they were
27 not paid;
- 28 k. Whether each member of the Former Employee Class receive all vacation wages

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- 1 owed upon termination;
- 2 l. Whether GRIMES’s vacation policies provided for conditions precedent for vesting
- 3 of vacation wages;
- 4 m. Whether GRIMES’s vacation policies provided for vesting of vacation wages
- 5 concurrently with the rendering of labor by Defendants’ employees;
- 6 n. Whether Defendants’ failure to pay meal and rest break penalties earned by the
- 7 Working Conditions Class pursuant to Labor Code section 226.7(b) at the
- 8 conclusion of each pay period constitutes a violation of Labor Code section 204
- 9 and/or Business & Professions Code sections 17200 *et seq.*;
- 10 o. Whether Defendants’ failure to pay meal and rest break penalties earned by the
- 11 Former Employee Class pursuant to Labor Code section 226.7(b) at the termination
- 12 of the employment relationship constitutes a violation of Labor Code sections 201
- 13 and 202 and gives rise to wage penalties under Labor Code section 203;
- 14 p. Whether, as a consequence of Defendant’s unlawful conduct, Plaintiff and those
- 15 similarly situated employees are entitled to restitution, and/or other equitable relief;
- 16 q. Whether Defendant’s affirmative defenses, if any, raise any common issues of law
- 17 or fact as to Plaintiff and the Class members as a whole.

18 30. **Typicality:** Plaintiff’s claims are typical of the claims of the members of the
19 respective Classes because Plaintiff was exposed to the same unlawful business practices as the
20 members of the Classes. Plaintiff sustained the same types of injuries and losses that the members
21 of the respective Classes sustained. Plaintiff is subject to the same affirmative defenses as the
22 members of the Classes.

23 31. **Adequacy:** Plaintiff will adequately and fairly protect the interests of the members
24 of the Classes. Plaintiff has no interest adverse to the interests of absent members of the Classes.
25 Plaintiff is represented by legal counsel who has substantial class action experience in civil
26 litigation and employment law.

27 32. **Superiority:** A class action is superior to other available means for fair and
28 efficient adjudication of the claims of the Classes and would be beneficial for the parties and the

1 court. Class action treatment will allow a large number of similarly situated persons to prosecute
2 their common claims in a single forum, simultaneously, efficiently, and without the unnecessary
3 duplication of effort and expense that numerous individual actions would require. The monetary
4 amounts due to many individual members of the Classes are likely to be relatively small, and the
5 burden and expense of individual litigation would make it difficult or impossible for individual
6 members of the Classes to seek and obtain relief. A class action will serve an important public
7 interest by permitting such individuals to effectively pursue recovery of the sums owed to them.
8 Further, class litigation prevents the potential for inconsistent or contradictory judgments raised
9 by individual litigation.

10
11 **FIRST CAUSE OF ACTION**
12 **FAILURE TO PAY ALL WAGES EARNED EACH PAY PERIOD**
(By Plaintiff and the Working Conditions Class Against Defendants)

13 33. Plaintiff incorporates paragraphs 1 through 32 of this complaint as though fully
14 alleged herein.

15 34. At all relevant times, Plaintiff and the other members of the Working Conditions
16 Class were employees of Defendant covered by Labor Code section 204.

17 35. Pursuant to Labor Code section 204, Plaintiff and the other members of the
18 Working Conditions Class were entitled to receive on regular paydays all wages earned for the pay
19 period corresponding to the payday.

20 36. Pursuant to Labor Code section 204, Plaintiff and the other members of the
21 Working Conditions Class were entitled to receive on all regular pay days all wages and wage
22 premiums to which they were entitled to recover pursuant to Labor Code section 226.7 on regular
23 paydays for all non-compliant meal and rest periods during the pay period corresponding to the
24 payday.

25 37. Defendants failed to pay Plaintiff and other members of the Working Conditions
26 Class for all wages and wage premiums earned and to which they were entitled each pay period
27 on the regular payday for the pay period.

28 38. Plaintiff is informed and believes and thereon alleges that at all relevant times

1 within the applicable limitations period, Defendants maintained and continue to maintain a policy
2 or practice of that fails to provide its employees with two meal breaks for each shift that exceeds
3 twelve hours of on-the-clock time, and, as well as failing to provide three rest breaks on such days.
4 Plaintiff is further informed and believes that Defendant maintained and continues to maintain a
5 policy or practice of requiring members of the Working Conditions Class to take meal breaks after
6 the end of the fifth hour of work on days where Class members worked in excess of six hours. As
7 a result of Defendant's unlawful conduct, Plaintiff and members of the Working Conditions Class
8 have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages
9 earned during each pay period.

10 39. Pursuant to Labor Code sections 218, 218.5 and 218.6, Plaintiff and members of
11 the Working Conditions Class are entitled to recover the full amount of their unpaid wages,
12 prejudgment interest, reasonable attorneys' fees and costs of suit.

13
14 **SECOND CAUSE OF ACTION**
15 **FAILURE TO PAY OVERTIME WAGES**
16 **(By Plaintiff and the Working Conditions Class against Defendants)**

17 40. Plaintiff incorporates paragraphs 1 through 39 of this complaint as though fully
18 alleged herein.

19 41. At all relevant times, Plaintiff and the other members of the Working Conditions
20 Class were employees of Defendants covered by Labor Code section 510 and Wage Order 16-
21 2001.

22 42. Pursuant to Labor Code section 510 and Wage Order 16-2001, Plaintiff and the
23 other members of the Working Conditions Class were entitled to overtime wages payable at the
24 rate of at least one and one-half times their regular rate of pay for all work in excess of eight hours
25 in one workday or in excess of forty hours in one workweek and payable at the rate of at least
26 twice the regular rate of pay for all work in excess of twelve hours in one workday and in excess
27 of eight hours on the seventh day worked in a workweek.

28 43. Defendants failed to pay Plaintiff and other members of the Working Conditions
Class for all overtime owed in accordance with Labor Code section 510. Plaintiff is informed and

believes and thereon alleges that at all relevant times within the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of requiring Working Conditions Class members to perform various duties off the clock without compensating them for all their hours actually worked.

44. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Working Conditions Class have suffered damages in an amount, subject to proof, to the extent they were not paid for all overtime premiums earned.

THIRD CAUSE OF ACTION
FAILURE TO PAY WAGES TIMELY UPON CESSATION OF EMPLOYMENT
(By Plaintiffs and the Former Employee Class against Defendants)

45. Plaintiff incorporates paragraphs 1 through 44 of this complaint as though fully alleged herein.

46. At all relevant times, Plaintiff and the other members of the Former Employee Class were employees of Defendant covered by Labor Code section 201 or 202.

47. Pursuant to Labor Code sections 201 or 202, Plaintiff and other members of the Former Employee Class were entitled upon cessation of employment with Defendants to timely payment of all wages earned and unpaid prior to termination. Discharged employees were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Employees who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid prior to resignation at the time of resignation.

48. Defendants failed to pay Plaintiff and other members of the Former Employee Class all wages earned and unpaid prior to termination timely in accordance with Labor Code section 201 or 202. Plaintiff is informed and believes and thereon alleges that by failing to pay for all work time, at all relevant times within the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of not paying terminated employees all their final wages earned before termination, due under Labor Code section 201 or 202.

49. Defendants' failure to pay Plaintiff and members of the Former Employee Class all wages earned prior to termination in accordance with Labor Code sections 201 or 202 was willful. Defendants had the ability to pay all wages earned by employees prior to termination in accordance with Labor Code sections 201 or 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 or 202.

50. Pursuant to Labor Code section 201 or 202, Plaintiff and other members of the Former Employee Class are entitled to all wages earned prior to termination that Defendants failed to pay them.

51. Pursuant to Labor Code section 203, Plaintiff and other members of the Former Employee Class are entitled to continuation of their wages, from the day their earned and Unpaid Wages were due upon termination until paid, up to a maximum of 30 days.

52. As a result of Defendants' conduct, Plaintiff and other members of the Former Employee Class have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages earned prior to termination.

53. As a result of Defendants' conduct, Plaintiff and members of the Former Employee Class have suffered damages in an amount, subject to proof, to the extent they were not paid all continuation wages owed under Labor Code section 203.

54. Pursuant to Labor Code sections 218 and 218.5, Plaintiff and other members of the Former Employee Class are entitled to recover the full amount of their unpaid wages, continuation wages under Labor Code Section 203, reasonable attorneys' fees and costs of suit. Pursuant to Labor Code section 218.6 or Civil Code section 3287(a), Plaintiff and other members of the Former Employee Class are entitled to recover prejudgment interest on the amount of their unpaid wages and unpaid continuation wages.

FOURTH CAUSE OF ACTION
FAILURE TO FURNISH ACCURATE WAGE STATEMENTS
(By Plaintiff and the Wage Statement Class Against All Defendants)

55. Plaintiff incorporates paragraphs 1 through 54 of this complaint as though fully alleged herein.

1 56. Labor Code section 226(a) sets forth reporting requirements for employers when
2 they pay wages: “Every employer shall ... at the time of each payment of wages, furnish each of
3 his or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total
4 hours worked by the employee ... (5) net wages earned ... and (9) all applicable hourly rates in
5 effect during the pay period and the corresponding number of hours worked at each hourly rate by
6 the employee.” Labor Code section 226(e) provides: “An employee suffering injury as a result of
7 a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to
8 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
9 violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent
10 pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) per employee,
11 and is entitled to an award of costs and reasonable attorneys’ fees.”

12 57. Throughout the period applicable to this cause of action, Defendants knowingly
13 and intentionally failed to furnish, and continue to knowingly and intentionally fail to furnish, to
14 Plaintiff and other members of the Wage Statement Class, upon each payment of wages, itemized
15 statements accurately showing the required information, including but not limited to the total hours
16 worked, net wages earned, gross wages earned, and proper hourly rates each pay period.

17 58. Plaintiff and the other members of the Wage Statement Class suffered injury by
18 these failures because, among other things, the failures led them to believe that they were being
19 paid for all time actually worked at the correct rates, and because these wage statement failures
20 prevented and will prevent them from determining the true amounts of wages owed to them, and
21 caused them, and will cause them, extra work and effort to determine their true wages. Plaintiff
22 and other members of the Wage Statement Class are deemed to suffer injury pursuant to Labor
23 Code section 226(e)(2).

24 59. Plaintiff and the other Wage Statement Class members are entitled to the amounts
25 provided for in Labor Code section 226(e)(1), plus attorney’s fees and costs of suit.

26 60. Pursuant to Labor Code section 218.6 or Civil Code section 3287(a), Plaintiff and
27 the other members of the Working Conditions Class are entitled to recover prejudgment interest
28 on the amount of their unpaid penalty wages.

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FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS
(By Plaintiff and the Working Conditions Class against Defendants)

61. Plaintiff incorporates paragraphs 1 through 60 of this complaint as though fully alleged herein.

62. At all relevant times, Plaintiff and the other members of the Working Conditions Class were employees of Defendant covered by Labor Code sections 226.7 and 512, and Wage Order 1-2001.

63. Pursuant to Labor Code sections 226.7 and 512, and Wage Order 16-2001, prior to the start of the sixth hour of work, Plaintiff and the other members of the Working Conditions Class were entitled to an uninterrupted meal period of at least 30 minutes for each workday they worked more than six hours in any workday, and one additional hour of pay for every day that a meal period was not provided.

64. Pursuant to Labor Code sections 226.7 and 512, and Wage Order 1-2001, Plaintiff and the other members of the Working Conditions Class were entitled to a second meal period of at least 30 minutes for each workday they worked more than 10 hours in any workday, or more than 12 hours without an valid meal waiver, and one additional hour of pay for every day that a meal period was not provided.

65. Defendants failed to afford, permit, or provide Plaintiff and other members of the Working Conditions Class with meal periods in accordance with Labor Code sections 226.7 and 512, and Wage Order 1-2001. Plaintiff is informed and believes and thereon alleges that during the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of not consistently providing timely full thirty-minute uninterrupted off-the-clock meal periods to the Working Conditions Class members, and prohibited them from taking a second meal period of at least 30 minutes when they worked more than 10 hours in any workday, or 12 hours in any workday irrespective of a valid meal waiver.

66. Defendants failed to provide Plaintiff and other members of the Working Conditions Class the additional hour of pay required by Labor Code section 226.7 and Wage Order 16-2001 for each failure of Defendants to comply with meal break obligations. Plaintiff is

informed and believes and thereon alleges that at all relevant times within the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of not paying additional pay to employees because of failures on its part to provide compliant meal periods.

67. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Working Conditions Class have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed meal periods.

68. Pursuant to Labor Code section 218, Plaintiff and other members of the Working Conditions Class are entitled to recover the full amount of their unpaid additional pay for missed meal periods. Pursuant to Labor Code section 218.5, Plaintiff and other members of the Working Conditions Class are entitled to recover their reasonable attorney's fees and costs of suit. Pursuant to Labor Code section 218.6 or Civil Code section 3287(a), Plaintiff and other members of the Working Conditions Class are entitled to recover prejudgment interest on the additional pay owed for missed meal periods.

SIXTH CAUSE OF ACTION
FAILURE TO PROVIDE PAID REST PERIODS
(By Plaintiff and the Working Conditions Class against Defendant)

69. Plaintiff incorporates paragraphs 1 through 68 of this complaint as though fully alleged herein.

70. At all relevant times, Plaintiff and the other members of the Working Conditions Class were employees of Defendants covered by Labor Code section 226.7 and Wage Order 16-2001.

71. Pursuant to Labor Code sections 226.7 and Wage Order 16-2001, Plaintiff and the other members of the Working Conditions Class were entitled to paid rest periods of at least 10 minutes for each four-hour period of work, or major fraction thereof, and one hour of additional pay for every day a paid rest period was not provided.

72. Defendants failed to allow Plaintiff and other members of the Working Conditions Class to take paid rest periods in accordance with Labor Code section 226.7 and Wage Order 16-

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2001. Plaintiff is informed and believes and thereon alleges that at all relevant times within the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of failing to provide or allow paid rest periods during which Plaintiff and the Working Conditions Class were free from their work obligations and released from all control of Defendant. Plaintiff is further informed and believes and thereon alleges that Defendants maintained and continue to maintain a policy or practice of providing no more than two paid rest breaks during any workday

73. Defendants failed to provide Plaintiff and other members of the Working Conditions Class the additional hour of pay required by Labor Code section 226.7 and Wage Order 1-2001 for non-compliant rest breaks. Plaintiff is informed and believes and thereon alleges that at all relevant times within the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of not paying additional pay to employees for non-compliant rest breaks.

74. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Working Conditions Class have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for non-compliant rest periods.

75. Pursuant to Labor Code section 218, Plaintiff and other members of the Working Conditions Class are entitled to recover the full amount of their unpaid additional pay for non-compliant rest periods. Pursuant to Labor Code section 218.5, Plaintiff and other members of the Working Conditions Class are entitled to recover their reasonable attorney's fees and costs of suit. Pursuant to Labor Code section 218.6 or Civil Code section 3287(a), Plaintiff and other members of the Working Conditions Class are entitled to recover prejudgment interest on the additional pay owed for missed rest periods.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 227.3
(By Plaintiff and the Former Employee Class)

76. Plaintiff incorporates paragraphs 1 through 75 of this complaint as though fully alleged herein.

77. At all times relevant hereto, Labor Code section 227.3 provided and provides in

1 pertinent part that whenever a contract of employment or employer policy provides for paid
2 vacations, and an employee is terminated without having taken off his or her vested vacation time,
3 all vested vacation shall be paid to him or her as wages at his or her final rate in accordance with
4 such contract of employment or employer policy respecting eligibility or time served.

5 78. At all times relevant hereto, Defendants maintained a policy whereby hourly,
6 nonexempt employees accrued vacation wages based upon regular hours worked by said
7 employees. The implementation of said policy further constituted an implied in fact contract.

8 79. During the relevant liability period, Plaintiff and other members of the Former
9 Employee Class accrued vacation wages in accordance with Defendants' vacation policy and the
10 implied in fact contract between Defendants and hourly, nonexempt employees.

11 80. Plaintiff is informed and believes that during the relevant liability period, upon
12 termination of Plaintiff and other members of the Former Employee Class, Defendants failed to
13 pay Plaintiff and other members of the Former Employee Class wages for all vested vacation time
14 at the final rate of pay of said employee.

15 81. Pursuant to Labor Code sections 218, 218.5, 218.6, 227.3, and Civil Code section
16 3289, Plaintiff and the Former Employee Class are entitled to recover all unpaid vested vacation
17 wages, reasonable attorney's fees, and interest at the legal rate.

18
19 **EIGHTH CAUSE OF ACTION**
20 **UNFAIR COMPETITION**
(By Plaintiff and All Classes)

21 82. Plaintiff incorporates paragraphs 1 through 81 of this complaint as though fully
22 alleged herein.

23 83. The unlawful conduct of Defendants alleged herein constitutes unfair competition
24 within the meaning of Business & Professions Code sections 17200 *et seq.* Due to its unlawful
25 and unfair business practices in violation of the Labor Code, Defendants have gained a competitive
26 advantage over other comparable companies doing business in the State of California that comply
27 with their obligations to compensate employees for all earned wages as required by law.

28 84. As a result of Defendants' unfair competition as alleged herein, Plaintiff and other

1 members of the Classes have suffered injury in fact and lost money or property. Plaintiff and
2 members of the Classes have been deprived of their rights to timely meal periods, each required
3 paid rest period, timely and accurate wage statements; and timely payment of all monies earned
4 each pay period and upon termination.

5 85. Pursuant to Business and Professions Code sections 17203, Plaintiff and other
6 members of the Classes are entitled to restitution of all wages and other monies owed and
7 belonging to them, including interest thereon, that Defendants wrongfully withheld from them and
8 retained for themselves by means of their unlawful and unfair business practices.

9 86. Pursuant to Business and Professions Code section 17203, Plaintiff and other
10 members of the Classes are entitled to an injunction to prevent the continuation of Defendants'
11 unlawful and unfair business practices that constitute unfair competition. Injunctive relief is
12 warranted because Defendants continue to engage in unlawful and unfair business practices with
13 respect to currently employed members of the Working Conditions Class, and such members of
14 the Classes have no adequate legal remedy for the continuing injuries that will be suffered as a
15 result of Defendants' ongoing unlawful conduct. Injunctive relief is the only remedy available to
16 prevent Defendants from continuing to engage in the unlawful and unfair business practices
17 described herein.

18
19 **NINTH CAUSE OF ACTION**
20 **PENALTIES PURSUANT TO THE**
21 **PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")**
22 **By Plaintiff and Other Aggrieved Employees**

23 87. Plaintiff incorporates paragraphs 1 through 86 of this complaint as though fully
24 alleged herein.

25 88. Plaintiff, by virtue of his employment with GRIMES and Defendants' policies
26 described herein, is an aggrieved employee with standing to bring an action under the PAGA.

27 89. On September 22, 2021, Plaintiff provided notice to the LWDA, GRIMES, and
28 OWNERS in accordance Labor Code § 2699.3 that the included the facts and theories to support
the alleged violations. Within 60 days of Plaintiff's notice to the LWDA, the LWDA did not take

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any action to investigate Plaintiff's allegations. By the date of service of this Complaint, Plaintiff will have satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, including, without limitation, the penalty provisions identified in Labor Code § 2699.

90. Because the LWDA took no steps within the time period required to intervene and because Defendant took no corrective action to remedy the allegations set forth above, Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in Labor Code § 2699.5 or uncured pursuant to Labor Code § 2699.3(c): Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 558, 558.1, 1199, and IWC Wage Order 16-2001.

91. Plaintiff is informed and believes that Defendants have violated and continue to violate provisions of the California Labor Code and applicable Wage Orders related to the payment of regular and overtime wages, payment of the correct amount for rest break and meal period premiums, the issuance of accurate itemized wage statements, payment of all vested vacation time, and the payment of all wages due at termination. Despite mailing of Plaintiff's notice to the LWDA at least 65 days prior to service of this Complaint, Defendants did not provide written notice of those violations alleged by Plaintiff which may be cured prior to the expiration of the 65-day period. By operation of law, Plaintiff is entitled to commence this cause of action in the California Superior Court as a representative action under the PAGA.

92. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the one year period before Plaintiff filed Notice with the LWDA of his intent to bring this action, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least 75% of the non-wage penalties recovered being reimbursed to the State of California and the Labor and Workforce Development Agency (LWDA).

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of himself and all others similarly situated, pray for relief and judgment against Defendant as follows:

1. An order that the action be certified as a class action;
2. An order that Plaintiff be certified as the representative of the Classes;
3. An order that counsel for Plaintiff be confirmed as Class counsel;
4. Judgment in favor of Plaintiffs and the Classes and against Defendants;
5. Damages for unpaid minimum wages;
6. Damages for unpaid wages;
7. Damages for unpaid overtime premiums;
8. Wage premiums pursuant to Labor Code § 226.7;
9. Continuation wages pursuant to Labor Code § 203;
10. Penalties pursuant to Labor Code § 226;
11. Restitution of all unpaid wages and other monies owed and belonging to class members that Defendants unlawfully withheld from them and retained for themselves;
12. Prejudgment interest;
13. Penalties pursuant to the PAGA;
14. Reasonable attorneys' fees;
15. Costs of suit; and
16. Such other relief as the Court deems just and proper.

DATED: November 22, 2021

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LAW OFFICES OF SAHAG MARJARIAN, II

By: 
KENNETH A. GOLDMAN, Esq.
Attorney for Plaintiff, Ricardo Bocanegra

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DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for herself and the Classes on all claims so triable.

DATED: November 22, 2021

LAW OFFICE OF KENNETH A. GOLDMAN, PC
LAW OFFICES OF SAHAG MARJARIAN, II

By: 
KENNETH A. GOLDMAN, Esq.
Attorney for Plaintiff, Ricardo Bocanegra