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Plaintiff STEVEN GONZALEZ,
an individual

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES-NORWALK COURTHOUSE
[UNLIMITED JURISDICTION]

STEVEN GONZALEZ, an individual
Plaintiff,

vs.

RULAS TIRE'S INC., a California
Corporation; RAUL VAZQUEZ, an
individual; and DOES 1 THROUGH 10,
inclusive

Defendants.

Case No.: 21NWCV00778

COMPLAINT FOR DAMAGES:

1. **WRONGFUL TERMINATION AND RETALIATION IN VIOLATION OF PUBLIC POLICY;**
2. **FAILURE TO PAY OVERTIME WAGES;**
3. **FAILURE TO PAY MINIMUM WAGES;**
4. **FAILURE TO PROVIDE MEAL BREAKS;**
5. **FAILURE TO PROVIDE REST BREAKS;**
6. **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226(a)];**
7. **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226.1];**
8. **WAITING TIME PENALTIES**
9. **WAGE AND HOUR— UNLAWFUL WITHHOLDING OF WAGES;**
10. **FAILURE TO REIMBURSE BUSINESS EXPENSES [California**

) **Labor Code §2802];**
) **11. NEGLIGENCE;**
) **12. VIOLATION OF CALIFORNIA'S**
) **UNFAIR COMPETITION LAW**
) **(Cal. Bus. & Prof. C. §§17200-17208)**
) **[DEMAND FOR JURY TRIAL]**
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Plaintiff STEVEN GONZALEZ ("PLAINTIFF"), an individual based on knowledge as to herself and on information as to all others, complains and alleges as follows:

I. PARTIES

1. PLAINTIFF is, and at all times material hereto was, an individual residing in the County of Los Angeles in the State of California.

2. PLAINTIFF is informed and believes on this basis alleges that Defendant RULAS TIRE'S. INC. ("RULAS TIRE'S") is, and at all times material hereto was, a California corporation conducting business in California, and located in Los Angeles County.

3. PLAINTIFF is informed and believes on this basis alleges that Defendant RAUL VAZQUEZ ("VAZQUEZ") is an individual conducting business in California, and in Los Angeles County.

4. The true names and capacities of defendants DOES 1 through 10, inclusive, whether individual, corporate, associate, or otherwise, are unknown to PLAINTIFF at this time, who therefore sues said defendants by such fictitious names; when the true names and capacities of such defendants are ascertained, PLAINTIFF will seek leave of Court to amend this Complaint to insert same. PLAINTIFF is informed and believes and thereon alleges that each defendant named as a DOE is responsible for each and every act and obligation hereinafter set forth.

5. PLAINTIFF is informed and believes and on this basis alleges that each defendant named in this Complaint (including DOES) was at all times herein mentioned and now is the agent, servant and employee of the other defendants herein, and was at all such times acting within the course and scope of said agency and employment and with the consent and permission of each

1 of the other co-defendants, and each of the defendants herein ratified each of the acts of each of
2 the other co-defendants, and each of them.

3 **II. FACTS COMMON TO ALL CAUSES OF ACTION**

4 6. PLAINTIFF was employed by Defendants RULAS TIRE'S and VAZQUEZ
5 (collectively, "DEFENDANTS") since on or around 2018 to work in their tire shop.

6 7. PLAINTIFF'S employment, the conditions of his employment and the pay policies
7 he was subjected to, were controlled by DEFENDANTS and each of them.

8 8. During his employment with DEFENDANTS, PLAINTIFF was paid a salary of
9 \$650 a week as an exempt employee. However, he was not correctly classified as an exempt
10 employee.

11 9. PLAINTIFF often worked in excess of 40 hours a week and was denied compliant
12 rest and meal breaks.

13 10. As a general company policy, DEFENDANTS only gave its employees 10 minutes
14 to take their lunch breaks at around 10:00 am altogether. With such a short period of time,
15 PLAINTIFF often could not finish his food and had to throw it away to resume work. Likewise,
16 there was no compliant rest periods under DEFENDANTS company policy. Typically, there
17 were none and on occasion when a rest break was available it about 5 minutes and without fully
18 being relieved of work obligations. Meals and rest breaks were also often interrupted with work
19 tasks.

20 11. The lack of meals and breaks and long hours in between what little breaks he had,
21 took an emotional and physical toll on PLAINTIFF and he complained.

22 12. PLAINTIFF Furthermore, to perform his job the PLAINTIFF was required to
23 purchase items, such as a waist harness for lifting heavy tires and rims. However, DEFENDANT
24 did not reimburse the PLAINTIFF for the said purchases.

25 13. PLAINTIFF was told he could take a few days off without pay if he wanted.
26 However, the PLAINTIFF could not afford to take unpaid time off.

27 14. Due to DEFENDANTS' meal & rest break policy, PLAINTIFF could not tolerate

1 the employment environment and his personal well-beings seriously deteriorated. His complaints
2 fell on deaf years. PLAINTIFF had no other options but was forced to quit his job.

3 15. On September 22, 2021 PLAINTIFF complied with *Labor Code* §2699.3(a) in that
4 PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development
5 Agency (LWDA”) and DEFENDANTS of the specific provisions of the labor Code alleged to
6 have been violated, including the facts and theories to support the alleged violation. As of the
7 date of filing this complaint, (more than 60 calendar days after Plaintiff’s LWDA letters were
8 mailed via certified mail), PLAINTIFF has not received any notification that the LWDA intended
9 to investigate the alleged violations.

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11 **III. FIRST CAUSE OF ACTION**
12 **WRONGFUL TERMINATION AND RETALIATION**
13 **IN VIOLATION OF PUBLIC POLICY**
14 **(Against RULAS TIRE’S and All DOES)**

15 16. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as
16 though they are fully set forth herein.

17 17. It is the public policy of the State of California that employers must follow all
18 employment laws and that employees be given complaint meal and rest breaks and not be
19 subjected to retaliation or any adverse employment action for asserting their rights. Similarly, it
20 is against the law to discriminate against an employee due to a disability. These policies are
21 enumerated in Labor Code §§132(a), 226.7 and 512(a), and, FEHA, OSHA, and the California
22 and United States Constitutions, among other laws and regulations.

23 18. PLAINTIFF was wrongfully constructively terminated and retaliated against by
24 DEFENDANTS as a result of complaining about illegal wage and hour practices in violation of
25 public policy.
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1 19. The fact that PLAINTIFF complained about the lack of meal and rest breaks and
2 the policies of employment were substantial motivating factors for the adverse employment
3 actions taken against him by DEFENDANTS.

4 20. As a substantial result of DEFENDANTS behavior in violation of public policy,
5 PLAINTIFF was harmed. Specifically, he lost income, and endured emotional and mental
6 damages, among other related damages.

7 21. PLAINTIFF believes that DEFENDANTS' conduct described above was done
8 with malice, fraud and oppression and with conscious disregard for her rights and with the intent,
9 design and purpose to cause her harm. As such, PLAINTIFF is also entitled to punitive and
10 exemplary damages.
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13 **IV. SECOND CAUSE OF ACTION**
14 **FAILURE TO PAY PREMIUM OVERTIME WAGES**
15 **(Against All Defendants)**

16 22. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as
17 though they are fully set forth herein.

18 23. PLAINTIFF was at all times relevant a non-exempt hourly employee of
19 DEFENDANTS.

20 24. PLAINTIFF regularly worked more than eight (8) hours in a day and/or forty (40)
21 hours in a week. However, PLAINTIFF was paid a salary and no overtime pay.

22 25. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived
23 of wages and overtime and double time premium pay in amounts to be proven at trial, and
24 PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties
25 and attorney's fees and costs.
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27 **V. THIRD CAUSE OF ACTION**
 FAILURE TO PAY MINIMUM WAGES

(Against All Defendants)

26. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as though they are fully set forth herein.

27. PLAINTIFF was at all times relevant a non-exempt hourly employee of DEFENDANTS.

28. PLAINTIFF regularly worked more than eight (8) hours in a day and/or forty (40) hours in a week. However, PLAINTIFF was paid a salary and not paid minimum wages or any wages when working more than eight (8) hours in a day and/or forty (40) hours in a week

29. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived of wages in amounts to be proven at trial, and PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS, plus liquidated damages, interest, penalties and attorney's fees and costs.

VI. FORTH CAUSE OF ACTION

WAGE AND HOUR – FAILURE TO PROVIDE MEAL BREAKS

(Against All Defendants)

30. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as though they are fully set forth herein.

31. PLAINTIFF's employment with DEFENDANTS entitled him to meal breaks.

32. PLAINTIFF was at times not given meal breaks and at other times meal breaks which were not compliant with labor laws.

33. PLAINTIFF was often given only 10-20 minutes for his meal break instead of the required 30 minutes.

34. Further, at times PLAINTIFF worked more than 10 hours in a shift; however, he was not given or advised that he may take a second meal break.

1 35. The exact amount of missed meal break wages owed to PLAINTIFF shall be
2 proved at trial. PLAINTIFF is entitled to his missed meal wages, plus penalties and interest,
3 among other damages.

4 36. PLAINTIFF is also entitled to reasonable attorney's fees and costs pursuant to
5 California Labor Code § 218 5(a).

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7 **VII. FIFTH CAUSE OF ACTION**
8 **WAGE AND HOUR – FAILURE TO PROVIDE REST PERIODS**
9 **(Against All Defendants)**

10 37. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as
11 though they are fully set forth herein.

12 38. PLAINTIFF's employment with DEFENDANTS entitled him to rest breaks.

13 39. Throughout PLAINTIFF'S employment, DEFENDANTS typically did not
14 provide him with rest breaks and/or compliant breaks for every four hours of work.

15 40. An employer who fails to provide rest periods as required by an applicable Wage
16 Order must pay the employee one additional hour of pay at the employee's regular rate of pay for
17 each workday that a rest period was not provided.

18 41. Plaintiff has been harmed and DEFENDANTS are liable to PLAINTIFF for one
19 (1) hour of additional premium pay at the regular rate of compensation for each day in which the
20 proper rest period was not provided. The exact amount of missed rest break wages owed to
21 Plaintiff shall be proved at trial.

22 42. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs
23 against DEFENDANTS.

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25 **VIII. SIXTH CAUSE OF ACTION**
26 **WAGE AND HOUR**
27 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS,**
VIOLATION OF LABOR CODE § § 226(a)(e)

(Against all Defendants)

43. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as though they are fully set forth herein.

44. *Labor Code* §226(a) requires employers to provide accurate itemized wage statements for each wage payment. *Labor Code* §226 (e) provides for a recovery of the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) (per employee).

45. Further, *Labor Code* §226.3 provides for civil penalties against anyone who violates *Labor Code* §226.

46. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage statements, willfully or intentionally.

47. DEFENDANTS failed, among other things, to include the total number of hours worked by PLAINTIFF as well as failed to list the appropriate hourly rates PLAINTIFF was legally entitled to. Moreover, the paystubs were for a salaried employee while PLAINTIFF should have been paid as a non-exempt employee.

48. As a result of DEFENDANTS' abovementioned unlawful act, Plaintiff suffered injury and damage.

49. Plaintiff is therefore entitled to recover from DEFENDANTS damages and penalties promulgated under *Labor Code* §§226 and 226.3.

50. PLAINTIFF is entitled to injunctive relief to ensure compliance with the abovementioned *Labor Code* provision, and attorney's fees among other damages.

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IX. SEVENTH CAUSE OF ACTION
WAGE AND HOUR
FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS,
VIOLATION OF LABOR CODE § 226.3
(Against all Defendants)

51. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as though they are fully set forth herein.

52. *Labor Code* §226(a) requires employers to provide accurate itemized wage statements for each wage payment. Specifically, Labor Code §226.3 provides a penalty of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement in compliance with Labor Code §226.

53. Further, *Labor Code* §§226 and 226.3 provides for civil penalties against anyone who violates Labor Code §226.

54. DEFENDANTS failed, among other things, to include the total number of hours worked by PLAINTIFF as well as failed to list the appropriate hourly rates PLAINTIFF was legally entitled to. Moreover, the paystubs were for a salaried employee while PLAINTIFF should have been paid as a non-exempt employee.

55. As a result of DEFENDANTS' abovementioned unlawful act, Plaintiff suffered injury and damage.

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X. EIGHTH CAUSE OF ACTION
WAGE AND HOUR – WAITING TIME PENALTIES
(Against all Defendants)

56. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as though they are fully set forth herein.

57. PLAINTIFF is owed wages by DEFENDANTS

1 58. PLAINTIFF was not paid all of his final wages since his constructive wrongful
2 termination until the date of filing this Complaint.

3 59. DEFENDANTS acted willfully in not paying DEFENDANTS final wages in full.

4 60. As a result of DEFENDANTS' abovementioned unlawful act, PLAINTIFF
5 suffered injury and damage.

6 61. As such, DEFENDANTS are liable to PLAINTIFF for her outstanding dues plus
7 the abovementioned penalties, plus interest, and attorney's fees, among other damages.
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10 **XI. NINTH CAUSE OF ACTION**
11 **UNLAWFUL WITHHOLDING OF WAGES**
12 **(Against all Defendants)**

13 62. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as
14 though they are fully set forth herein.

15 63. *California Labor Code* §216 provides that it is a misdemeanor for an employer to
16 "willfully refuse to pay wages due and payable after demand has been made" or "falsely den[y]
17 the amount or validity thereof."

18 64. *California Labor Code* §225.5 provides a penalty of \$100 for an initial violation
19 and \$200 for any subsequent violation of §216 plus 25% of the withheld amount.
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21 65. Upon her termination by DEFENDANTS, PLAINTIFF was entitled by law to
22 receive all of his wages and her paycheck(s) immediately. Defendants also unlawfully withheld
23 the balance of earned wages, overtime, missed meal and rest break wages, expense
24 reimbursements. Moreover, these wages were demanded thereafter.

25 66. As a result of DEFENDANTS' abovementioned unlawful act, PLAINTIFF
26 suffered injury and damage.
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1 67. As such, DEFENDANTS are subject to the *Labor Code* §225.5. PLAINTIFFS are
2 entitled to such penalties plus interest as required by law, plus restitution of all wages earned but
3 not paid, the exact amount of penalties will be proved at trial.
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5 **XII. TENTH CAUSE OF ACTION**
6 **FAILURE TO REIMBURSE EXPENSES**
7 **(Against all Defendants)**

8 68. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as
9 though they are fully set forth herein.

10 69. In California employers must cover employees' expenses. Pursuant to *Labor Code*
11 §2802(a) an employer is required to "indemnify him or her employee for all necessary
12 expenditures and losses incurred by the employee in direct consequence of the discharge of his
13 or her duties, or of his or her obedience to the directions of the employer..." This includes, "all
14 reasonable costs." (*Labor Code* §2802(c).) Further, the employee may not waive these rights.
15 (*Labor Code* §2804.)
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17 70. PLAINTIFF's job profile required him or made it necessary for him to purchase a
18 waist harness and other items as part of his job for DEFENDANTS, and PLAINTIFF did make
19 such purchases for the benefit of DEFENDANTS.
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21 71. DEFENDANTS did not reimburse PLAINTIFF for such expenses.

22 72. Therefore, DEFENDANTS are liable and PLAINTIFF entitled to reimbursement
23 of his expenses and other costs needed to adequately perform his job and/or for the benefit of
24 DEFENDANTS. Plaintiff is therefore entitled to reimbursement from DEFENDANT'S pursuant
25 to *Labor Code* §2802(a).
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1 **XIII. ELEVENTH CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(Against All Defendants)**

4 73. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as
5 though they are fully set forth herein.

6 74. DEFENDANTS owe a duty to their employees, and at all times relevant owed
7 PLAINTIFF a duty, to pay him properly and given him compliant meal and rest breaks, and to
8 provide a safe, non-retaliatory, to make sure supervisors and managers look after the safety of
9 employees during their watch, to pay employees proper wages when due, and to provide them
10 with proper wage statements.

11 75. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

12 76. In so doing, DEFENDANTS harmed Plaintiff including causing him to lose his
13 job and emotional damages, and general and consequential damages.

14 77. As a result of this negligence, PLAINTIFF suffered and continues to suffer serious
15 emotional distress in the form of stress, anxiety, embarrassment, and depression. This was a
16 foreseeable result of DEFENDANTS' negligence.

17 78. DEFENDANTS breaches of duty were and are the actual and proximate cause of
18 PLAINTIFF's harm.

19 **XIV. TWELTH CAUSE OF ACTION**

20 **VIOLATION OF CAL. BUS. & PROF. CODE § § 17200 ET. SEQ.**

21 **FOR UNFAIR BUSINESS PRACTICES**

22 **(AGAINST ALL DEFENDANTS)**

23 79. PLAINTIFF hereby incorporates by reference all of the previous paragraphs as
24 though they are fully set forth herein.

25 80. DEFENDANTS, themselves or through their supervisors, in an effort to exploit,
26 harass, and discriminate against its workers for profit or otherwise, have engaged in the following
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1 unlawful, unfair, deceptive, and misleading business practices, amongst others outlined in this
2 complaint:

- 3 a. Failing to properly supervise and train its employees;
- 4 b. Failure to provide needed breaks;
- 5 c. Wrongfully terminating and retaliating against workers who asserted legal
- 6 rights; and
- 7 d. Not properly paying its employees.

8
9 81. Pursuant to the provisions of Section 17203 of the California Business and
10 Professions Code, this Court should issue an injunction prohibiting DEFENDANTS from
11 engaging in the foregoing unfair, deceptive, and misleading business practices.

12 82. Pursuant to the provisions of Section 17203 of the California Business and
13 Professions Code, Plaintiff is entitled to restoration of lost wages, medical expenses, and profits,
14 DEFENDANTS have collected by the use of the unfair, deceptive, and misleading business
15 practices described in this Complaint.

16
17 83. Pursuant to provisions of Section 17203 et seq. DEFENDANTS must be ordered
18 to disgorge to PLAINTIFF ALL the profits in the relevant statutory PLAINTIFF that
19 DEFENDANTS have received from improperly billing Clients and cheating of workers in terms
20 of their hours reported as having been worked but not paid.

21
22 **XV. PRAYER**

23 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS and DOES 1
24 through 10 inclusive, as follows:

25 **FIRST CAUSE OF ACTION**

- 26 1. General and compensatory damages subject to proof at trial, including but not limited
- 27 to back pay, front pay, loss of economic benefits, harassment/discrimination damages,
and the like.

2. Special Damages
3. Emotional distress damages
4. Punitive and Exemplary damages

SECOND thru NINTH CAUSES OF ACTION

1. An award to Plaintiff of damages for an amount of unpaid minimum wages, overtime wages, commissions, meal, and rest period compensation, including interest thereon, subject to proof at trial;
2. Civil and Statutory Penalties
3. Liquidated damages (if applicable)
4. Attorneys' fees (where provided by law)
5. Pre-judgment interest.

TENTH CAUSE OF ACTION

1. Reimbursement of unpaid expenses
2. Attorneys' fees (where provided by law)
3. Pre-judgment interest.

ELEVENTH CAUSE OF ACTION

1. General and compensatory damages subject to proof at trial, including but not limited to back pay, front pay, loss of economic benefits, harassment damages, and the like.
2. Special Damages
3. Emotional distress damages

TWELTH CAUSE OF ACTION

1. That Defendant be ordered to pay restitution to Plaintiff pursuant to Business & Professions Code § 17200 et seq. for the four years preceding the filing of this complaint;
2. That Plaintiff be awarded reasonable attorney's fees and costs;
3. For interest pursuant to applicable provisions of law, including Business and Professions Code § 17203;
4. For injunctive relief under Business & Professions Code § 17200 et seq.;

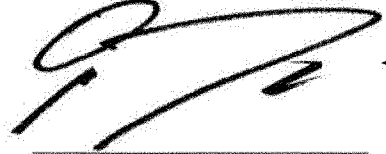
1 ALL CAUSES OF ACTION

2 1. Costs of suit

3 2. For an award of such other and further equitable and legal relief as this Court may
4 deem appropriate.

5 Dated November 19, 2021

BITTON & ASSOCIATES

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9 OPHIR J. BITTON,
10 Attorneys for Plaintiff
11 STEVEN GONZALEZ, an individual
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1 **XVI. DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a trial of their claims by jury to the extent authorized by law.

3 Dated: November 19, 2021

BITTON & ASSOCIATES

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6 OPHIR J. BITTON

7 Attorneys for Plaintiff STEVEN GONZALEZ, an
8 individual
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