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and on behalf of all similarly situated employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

GUILLERMO BECERRA and ARTURO
MARTINEZ, as individuals and on behalf of
all similarly situated employees,

Plaintiffs,

v.

LEGACY FARMS EMPLOYMENT
SERVICES COMPANY, INC. and DOES 1-
50, inclusive,

Defendants.

Case No.: 30-2021-01225861-CU-OE-CXC

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES**

1. Failure to Pay All Wages, Including Overtime Wages and Minimum Wage;
2. Failure to Provide Meal Periods;
3. Failure to Provide Rest Periods;
4. Failure to Provide Accurate Itemized Wage Statements;
5. Failure to Pay Wages Upon Ending Employment;
6. Failure to Indemnify for Expenditures;
7. Unfair Competition (Business and Professions Code § 17200 et seq.); and
8. Violation of Labor Code §§2698-2699 (Private Attorneys General Act ("PAGA")).

DEMAND FOR JURY TRIAL

1 Plaintiff GUILLERMO BECERRA and ARTURO MARTINEZ (hereinafter
2 “Plaintiffs”), as individuals and on behalf of all others similarly situated, complains, and alleges
3 as follows:

4 **INTRODUCTION**

5 1. This is a class action brought on behalf of Plaintiffs and the class of similarly
6 situated former and current employees they seek to represent (“Plaintiff Class” or “Class
7 Members.”) Class Members consist of all non-exempt, hourly-paid employees currently and/or
8 formerly employed by Defendant LEGACY FARMS EMPLOYMENT SERVICES
9 COMPANY, INC. (hereinafter “Defendant”) during the Class Period. The term “Class Period”
10 is defined as four (4) years prior to the filing of the complaint through the date of judgment.
11 Plaintiffs reserve the right to amend this complaint to reflect a different “Class Period” as
12 further discovery is conducted.

13 2. Plaintiffs, individually, and on behalf of Class Members seek to represent, seek
14 relief against Defendant for: (1) the failure to pay all wages due in violation in accordance with
15 Labor Code sections 510 and 1194, as well as California Code of Regulations, Title 8, section
16 11160, subdivision (3), including both regular and overtime wages; (2) the failure to provide
17 meal periods or compensation in lieu thereof pursuant to Labor Code sections 226.7, 512 as
18 well as 8 CCR section 11160, subd. (10); (3) the failure to provide legally compliant rest
19 periods pursuant to Labor Code sections 226.7, 512 as well as 8 CCR section 11160, subd. (11);
20 (4) the failure to pay wages of terminated or resigned employees pursuant to Labor Code
21 sections 201, 202, 203; (5) the failure to provide accurate itemized wage statements upon
22 payment of wages pursuant to Labor Code sections 226, subdivision (a), 1174, 1175; and (6)
23 failure to indemnify/reimburse employer-related business expenditures pursuant to Labor Code
24 section 2802.

25 3. Plaintiffs further seek equitable remedies in the form of declaratory relief and
26 injunctive relief, and relief under the Business and Professions Code sections 17200 et seq. for
27 unfair business practices.

28 4. At all times relevant herein, Defendant carried out a joint scheme, business plan,

1 or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable
2 to the other Defendants. Defendant has consistently maintained and enforced against Class
3 Members the following unlawful practices and policies:

- 4 a. willfully refusing to pay Plaintiffs and Plaintiff Class for all hours worked,
5 including both regular and overtime;
- 6 b. willfully refusing to permit Plaintiffs and Plaintiff Class from taking rest
7 periods or compensation in lieu thereof;
- 8 c. willfully refusing to permit Plaintiffs and Plaintiff Class from taking legally
9 compliant meal periods or compensation in lieu thereof
- 10 d. willfully refusing to furnish to Plaintiffs and Plaintiff Class accurate itemized
11 wage statements upon payment of wages;
- 12 e. willfully refusing to compensate Plaintiffs and certain members of the
13 Plaintiff Class wages due and owing at the time of Plaintiffs and Plaintiff
14 Class' employment with Defendants ended; and
- 15 f. willfully refusing to indemnify Plaintiffs and Class Members reasonable
16 business expenditures incurred in the scope of their duties.

17 **JURISDICTION AND VENUE**

18 5. Venue is proper in this judicial district and the County of Orange because the
19 Defendant maintains a location in this county, transact business in this county, the obligations
20 and liability arise in this county, making the subject of this action in the County of Orange,
21 State of California.

22 6. The wages, statutory penalties, monetary damages, and restitution sought by
23 Plaintiffs exceed the minimal jurisdictional limits of the Superior Court and will be established
24 according to proof at trial. This Court has jurisdiction over this action pursuant to California
25 Constitution, Article VI, section 10. The statutes under which this action is brought do not
26 specify any other basis for jurisdiction.

27 7. The California Superior Court has jurisdiction in the matter because the
28 individual claim is under the seventy-five thousand dollars (\$75,000.00) individual claim

1 threshold and five million dollar (\$5,000,000) aggregated jurisdictional threshold for federal
2 court, and, upon information and belief, Plaintiffs and Defendant are residents of and/or
3 domiciled in the State of California. Further, there is no federal question at issue as the issues
4 herein are based solely on California Statutes and law including the California Labor Code,
5 Industrial Welfare Commission Wage Orders, Code of Civil Procedure, Rules of Court, and
6 Business and Professions Code.

7 **ADMINISTRATIVE PREREQUISITES**

8 8. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause
9 of action under PAGA only after giving the Labor Workforce Development Agency
10 (“LWDA”) and the employer notice of the Labor Code sections alleged to have been violated,
11 and after receiving notice from the LWDA of its intention not to investigate, or after 65 days
12 have passed without notice from the LWDA.

13 9. By this complaint, Plaintiffs bring this case as a representative action seeking
14 penalties for the State of California in a representative capacity, as provided by PAGA, Labor
15 Code section 2698 et seq., to the extent permitted by law, as aggrieved employees who were
16 employed by Defendant and did not receive all wages due, was not paid overtime, was not able
17 to take lawful meal and rest breaks, did not receive all wages due at the termination of
18 employment, did not receive accurate itemized wage statements, and were not reimbursed for all
19 necessary business expenditures..

20 10. On September 9, 2021, prior to the filing of this complaint, Plaintiffs gave
21 written notice of the specified provisions alleged to have been violated, including the facts and
22 theories to support the alleged violations, as required by Labor Code section 2699.3. This
23 written notice was given via certified mail to Defendant(s), and to the LWDA by electronically
24 filing the notice via the Department of Industrial Relations website. Plaintiffs were given a
25 LWDA case number of LWDA-CM-844059-21. A true and correct copy of Plaintiffs’ notice to
26 the LWDA and Defendant(s), dated September 9, 2021, is attached hereto as Exhibit A.

27 11. On January 29, 2024, Plaintiffs filed an Amended PAGA Notice, adding Plaintiff
28 Becerra as a PAGA representative This written notice was given via certified mail to

1 Defendant(s), and to the LWDA by electronically filing the notice via the Department of
2 Industrial Relations website. Plaintiffs were given a LWDA case number of LWDA-CM-
3 844059-21. A true and correct copy of Plaintiffs' amended notice to the LWDA and
4 Defendant(s), dated January 29, 2024, is attached hereto as Exhibit B.

5 **THE PARTIES**

6 **A. The Plaintiffs**

7 12. Plaintiff, Mr. Becerra, was employed by Defendant from in or around 2010
8 through on or in May 20, 2020. Throughout his employment, Defendant controlled Plaintiff's
9 schedule and directed her duties each day, preventing Plaintiff from exercising any reasonable
10 degree of discretion or independent judgment. Plaintiff is accordingly non-exempt under
11 California labor laws and thereby entitled to civil penalties and all other rights accruing from
12 the alleged violations described herein.

13 13. Plaintiff, Mr. Martinez, is employed by Defendant beginning in around 2007
14 through October 12, 2020. Throughout his employment, Defendant controlled Plaintiff's
15 schedule and directed her duties each day, preventing Plaintiff from exercising any reasonable
16 degree of discretion or independent judgment. Plaintiff is accordingly non-exempt under
17 California labor laws and thereby entitled to civil penalties and all other rights accruing from
18 the alleged violations described herein.

19 14. Plaintiffs, at all relevant times herein, were employees of the Defendant and
20 entitled to compensation for: (1) all hours worked, (2) overtime compensation, (3) non-
21 compliant rest and meal periods; (4) unreimbursed business expenses, and (5) penalties from
22 Defendants. At all relevant times herein, Plaintiffs were employed by Defendants during the
23 defined Class Period in a non-exempt hourly capacity. Each of the putative Class Members is an
24 identifiable, current, and/or former similarly situated person who was employed in non-exempt
25 hourly position in California for Defendants during the defined Class Period.

26 **B. The Defendant**

1 15. Plaintiffs are informed and believe and based thereon allege that Defendant
2 Legacy Farms Employment Services Company, Inc. is a Delaware corporation. Defendant
3 Legacy Farms Employment Services Company, Inc. is duly licensed and in the business of
4 packing and delivering fresh produce. On information and belief, Defendant Legacy Farms
5 Employment Services Company, Inc. was and/or is the employer of Plaintiffs and putative
6 Plaintiff Class during the Class Period. Plaintiffs also allege that Legacy Farms Employment
7 Services Company, Inc. is conducting business in good standing in California.

8 16. Plaintiffs are ignorant of the true names, capacities, relationships and extent of
9 participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through
10 50, inclusive, but on information and belief allege that said Defendants are legally responsible
11 for the payment of minimum wage and/or overtime compensation, rest period compensation
12 and/or Labor Code section 203 penalties to the putative Plaintiff Class members by virtue of
13 their unlawful practices, and therefore sues these Defendants by such fictitious names.
14 Plaintiffs will amend this complaint to allege the true names and capacities of the DOE
15 Defendants when ascertained.

16 17. Plaintiffs are informed and believe, and based thereon allege, that each
17 Defendant acted in all respects pertinent to this action as the agent of the other Defendant,
18 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts
19 of each Defendant are legally attributable to the other Defendant. Furthermore, Defendant in all
20 respects acted as the employer and/or joint employer of Plaintiffs and Plaintiff Class.

21 18. Plaintiffs are informed and believe, and based thereon allege, that each
22 Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee,
23 proxy, managing agent, and/or principal of the Defendant, and in performing the actions
24 mentioned below was acting, at least in part, within the course and scope of that authority as
25 such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or
26 principal with permission and consent of the Defendant. Plaintiffs also allege the acts of each
27 Defendant are legally attributable to the other Defendants.

19. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants sued herein was, at all times relevant hereto, the employer, owner, shareholder, principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with the express and implied permission, consent, and knowledge, approval and/or ratification of the other Defendants.

20. The above Defendants, managing agents, and supervisors aided, abetted, condoned, permitted, approved, authorized and/or ratified the unlawful acts described herein.

GENERAL ALLEGATIONS

21. Labor Code section 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to recover in a civil action the unpaid balance of their overtime compensation, including interest thereon, reasonable attorneys' fees and costs of suit.

22. Further, Business and Professions Code section 17203 provides that any person who engages in unfair competition may be enjoined in any court of competent jurisdiction. Business and Professions Code section 17204 provides that any person who has suffered actual injury and has lost money or property as a result of the unfair competition may bring an action in a court of competent jurisdiction.

23. During all, or a portion of the Class Period, Plaintiffs and each member of the putative Plaintiff Class was employed by Defendant in the State of California.

24. Plaintiffs and Class Members were non-exempt employees covered under one or more Industrial Welfare Commission (“IWC”) Wage Order(s), and Labor Code section 510, and/or other applicable Wage Orders, regulations and statutes, and each Class Member was not subject to an exemption for executive, administrative or professional employees, which imposed obligations on the part of Defendant to pay Plaintiffs and Class Members lawful overtime compensation.

25. Plaintiffs and Plaintiff Class were covered by one or more IWC Wage Order(s), and Labor Code sections 512, 226.7 and other applicable Wage Orders, regulations and statutes

1 which imposed an obligation on the part of Defendant to pay Plaintiffs and Plaintiff Class meal
2 period compensation.

3 26. Plaintiffs and Plaintiff Class were covered by one or more IWC Wage Order(s),
4 and Labor Code section 226.7 and other applicable Wage Orders, regulations and statutes which
5 imposed an obligation on the part of Defendant to pay Plaintiffs and Plaintiff Class rest period
6 compensation.

7 27. During the Class Period, Defendant was obligated to pay Plaintiffs and Class
8 Members for all hours worked. However, Defendant had a policy and practice of not paying
9 Plaintiff and Class Members for all hours worked by requiring its employees to work off-the-
10 clock. This includes uncompensated time spent being subjected to control of Defendant prior to
11 their scheduled shifts and time worked beyond regularly scheduled shift hours. Further,
12 Plaintiffs and Class Members were required to using their own vehicles for business purposes.
13 Additionally Defendant would contact Plaintiffs on their personal cell phones on and off duty to
14 send photos and information about work to be completed including texting photographs.

15 28. Similarly, during the Class Period, Defendant was obligated to pay Plaintiffs and
16 Class Members overtime compensation for all hours worked in excess of eight (8) hours of
17 work in one (1) day or forty (40) hours in one (1) week and double-time compensation for hours
18 worked in excess of twelve (12) hours in one (1) day. However, Defendant did not pay
19 Plaintiffs and Class Members proper overtime and/or double-time rates for overtime hours spent
20 performing work off-the-clock as required by law.

21 29. During the Class Period, Defendant was obligated to provide Plaintiffs and
22 putative Class Members with a thirty (30) minute meal period for each and every work shift
23 exceeding five (5) hours, commencing no later than the end of the fifth (5th) hour of the shift.
24 Defendant prevented Plaintiff and Class Members from taking timely meal periods throughout
25 their shifts. This was due in part to Defendant's policy and practice of requiring employees to
26 prioritize completion of work tasks ahead of timely meal period compliance. Defendant failed
27 to provide and or schedule a timely duty-free meal period on or before the fifth (5th) hour of
28 work. Further, Defendant failed to advise Plaintiffs and Class Members their right to take

1 timely uninterrupted meal periods. Lastly, Defendant routinely would interrupted Plaintiffs and
2 the putative Class Members' meal periods and have them return to work thus depriving them of
3 a thirty minute uninterrupted meal period. Accordingly, Plaintiffs and Class Members did not
4 receive compliant duty-free meal periods.

5 30. During the Class Period, Defendant was obligated to provide Plaintiffs and Class
6 Members with a ten (10) minute rest break for every four (4) hours, or major fraction thereof,
7 worked each day. Defendant prevented Plaintiffs and Class Members from taking rest breaks
8 throughout their shifts. This was due in part to Defendant's policy and practice of scheduling
9 employees to work through their rest periods, as well as Defendant's policy and practice of
10 putting pressure on employees to complete work during their meal and rest breaks.

11 31. In order to facilitate their violations of wage and hour laws pertaining to payment
12 of wages and providing meal and rest periods, Defendant failed to comply statutes and
13 regulations requiring Defendant to accurately document the beginning and end times for each
14 work shift and the start/end times for each meal period, pursuant to Labor Code section 1174, as
15 well as 8 CCR § 11160 (6).

16 32. Furthermore, Defendant failed and/or refused to pay Plaintiffs and Class
17 Members one (1) hour's pay at the employees' regular rate of pay as premium compensation for
18 Defendant's failure to provide (1) timely meal periods and lawful ten (10) minute rest periods
19 within the statutory time frames.

20 33. Plaintiffs and Class Members who ended their employment with Defendant
21 during the Class Period but were not paid the above due compensation for all hours worked
22 timely upon the termination of their employment as required by Labor Code sections 201, 202,
23 203 are entitled to penalties as provided by Labor Code section 203. As a result of Defendant's
24 failure to pay Plaintiffs and Class Members all wages due during the Class Period, Defendant
25 failed to provide Plaintiffs and Class Members with accurate itemized wage statements, since
26 said statements did not set forth all regular and overtime hours worked, the compensation owed
27 for said hours, nor did the statements set forth the premiums owed for non-compliant meal and
28 rest periods.

34. During the Class Period, Defendant were obligated to keep and maintain accurate payroll records for Plaintiffs and all Class Members. Defendant's failure to keep and maintain said records as described above, constitutes violations of Labor Code section 226.7, thereby incurring statutory penalties.

CLASS ALLEGATIONS

37. Plaintiffs further proposes the following subclasses:

b. All persons who are employed or have been employed by Defendant in the State of California, and who, within the four (4) years of the filing of this complaint to the present, have worked as non-exempt employees and have not been provided a rest period for every four (4) hours, or major fraction

1 thereof, worked per day, and were not provided compensation of one (1)
2 hour's pay for each day on which such rest period(s) was not provided;

3 c. All persons who are employed or have been employed by Defendant in the
4 State of California, and who, within the three (3) years of the filing of this
5 complaint to the present, have worked as non-exempt employees and have
6 been terminated or resigned, and have not been paid wages pursuant to Labor
7 Code section 203 and are owed restitution and waiting time penalties for
8 unpaid wages;

9 d. All persons who are employed or have been employed by Defendant in the
10 State of California, and who, within the one (1) year of the filing of this
11 complaint to the present have worked as non-exempt employees and were not
12 provided an accurate payroll record or wage statement as required under
13 Labor Code sections 226 and 1174;

14 e. All persons who are employed or have been employed by Defendant in the
15 State of California, and who, within the four (4) years of the filing of this
16 complaint to the present, have worked as non-exempt employees and for
17 whom Defendant failed to keep accurate payroll records;

18 f. All persons who are employed or have been employed by Defendant in the
19 State of California, and who, within the four (4) years of the filing of this
20 complaint to the present, have worked as non-exempt employees and were
21 not indemnified for business expenditures incurred in the scope of their
22 employment;

23 g. All persons who are employed or have been employed by Defendant in the
24 State of California, and who, within the four (4) years of the filing of this
25 complaint to the present, have worked as non-exempt employees and were
26 subjected to unlawful and unfair business practices within the meaning of
27 California's Unfair Competition Law and who suffered injury, including lost
28 money, as a result of Defendant's unlawful and unfair business practices; and

1 h. All persons who are employed or have been employed by Defendant in the
2 State of California, and who, within the four (4) years of the filing of this
3 complaint to the present, have worked as non-exempt employees and are
4 entitled to recover unpaid wages, overtime compensation, rest and meal
5 period compensation and penalties, waiting time penalties, and attorneys'
6 fees and costs from Defendant under Labor Code section 2698 et seq.

7 38. Plaintiffs reserve the right under Rule 1855, subdivision (b) of the California
8 Rules of Court, to amend or modify the Plaintiff Class description with greater specificity or
9 further division into subclasses or limitation to particular issues.

10 39. This action has been brought and may be maintained as a class action pursuant to
11 Code of Civil Procedure section 382 because there is a well-defined common interest of many
12 persons and it is impractical to bring them all before the court.

13 40. This Court should permit this action to be maintained as a class action pursuant
14 to Code of Civil Procedure section 382 because:

- 15 a. The questions of law and fact common to the Plaintiff Class predominate
16 over any question affecting only individual members;
- 17 b. A class action is superior to any other available method for the fair and
18 efficient adjudication of the claims of the members of the Plaintiff Class;
- 19 c. The Plaintiff Class is so numerous that it is impractical to bring all member
20 of the Plaintiff Class before the Court;
- 21 d. Plaintiffs and the other members of the Plaintiff Class will not be able to
22 obtain effective and economic legal redress unless the action is maintained as
23 a class action;
- 24 e. There is a community of interest in obtaining appropriate legal and equitable
25 relief for the common law and statutory violations and other improprieties,
26 and in obtaining adequate compensation for the damages and injuries which
27 Defendant's actions have inflicted upon the Plaintiff Class;
- 28

- 1 f. There is a community of interest in ensuring that the combined assets and
2 available insurance of the Defendant are sufficient to adequately compensate
3 members of the Plaintiff Class for the injuries sustained;
- 4 g. Without class certification, the prosecution of separate actions by individual
5 members of the Plaintiff Class would create a risk of:
- 6 i. Inconsistent or varying adjudications with respect to individual
7 members of the Plaintiff Class which would establish incompatible
8 standard of conduct for the Defendant; and/or
- 9 ii. Adjudications with respect to the individual members which would,
10 as a practical matter, be dispositive of the interests of other members
11 not parties to the adjudications, or would substantially impair or
12 impede their ability to protect their interests, including but not limited
13 to the potential for exhausting the funds available from those parties
14 who is, or may be, responsible Defendant(s); and
- 15 h. Defendant has acted or refused to act on grounds generally applicable to the
16 Class, thereby making final injunctive relief appropriate with respect to the
17 Class as a whole.

18 **FIRST CAUSE OF ACTION**

19 **Failure to Pay All Wages Including Minimum, Regular and Overtime Wages**
20 **(Plaintiffs and Plaintiff Class Members against all Defendants)**

21 41. Plaintiffs and Plaintiff Class reallege and incorporate by reference all preceding
22 paragraphs of this complaint as though fully set forth herein.

23 42. Labor Code section 204 establishes the fundamental right of all employees in the
24 State of California to be paid wages, including straight time and overtime, in a timely fashion
25 for their work.

26 43. Labor Code section 510, subdivision (a) provides that “[a]ny work in excess of
27 eight (8) hours in one (1) workday and any work in excess of forty (40) hours in any one (1)
28 workweek and the first eight (8) hours worked on the seventh (7th) day of work in any one (1)

workweek shall be compensated at the rate of no less than one and one-half (1 & ½) times the regular rate of pay for an employee.”

44. Labor Code section 510, subdivision (a) further provides that “[a]ny work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

45. Labor Code section 1194 and applicable IWC Wage Orders make it unlawful for employers not to make required minimum wage payments, including minimum prevailing wage governed by Labor Code sections 1720 et seq, as well as overtime and double time payments identified in the preceding paragraphs, and that employees not paid such payments can recover any monies owed through a civil action.

46. Defendant has willfully violated the Labor Code by failing to pay Plaintiffs and Plaintiff Class all wages. Plaintiffs and Plaintiff Class were denied wages as a result of Defendant’s policy and practice of failing to compensate Plaintiffs and Plaintiff Class for all regular and overtime hours worked. Further, Defendant has regularly violated the Labor Code with respect to meeting the requirements of paying wages earned, including regular time, overtime, double-time, when calculating the employees’ regular rate of pay, as herein alleged. Defendant have intentionally excluded remuneration that must be included in all employees’ minimum, regular and overtime rates of pay in order to avoid payment of wages and other benefits in violation of the Labor Code and the applicable IWC Wage Order(s). Defendant is thereby able to reduce its overhead and operating expenses and gain an unfair advantage over competing companies who comply with state law.

47. Additionally, Plaintiffs and Plaintiff Class members were required use their own vehicles for Defendant’s benefit. Defendant obligated Plaintiffs and Plaintiff Class members to use their personal cell phones for Defendant’s business reasons including texting of photos of work assignments during off duty time. As such, Plaintiffs and Plaintiff Class seek compensation in an amount according to proof. Pursuant to Labor Code section 1194, the Plaintiff Class members seek the payment of all drive time compensation which they earned and

1 accrued four (4) years prior to filing this Complaint, according to proof. Defendants violated
2 Section 5 of Wage Order 4.

3 48. Additionally, Plaintiffs and Plaintiff Class members are entitled to attorneys'
4 fees, costs, pursuant to Labor Code section 1194 and prejudgment interest.

5 **SECOND CAUSE OF ACTION**

6 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**

7 **(Plaintiffs and Plaintiff Class against all Defendants)**

8 49. Plaintiffs and Plaintiff Class reallege and incorporate by reference all preceding
9 paragraphs of this complaint as though fully set forth herein.

10 50. Labor Code section 512 and California Code of Regulations, Title 8, section
11 11160 (10) provides that employers authorize and permit all employees to take meal periods or
12 at least thirty (30) duty-free minutes commencing no later than at the end of fifth (5th) hour of
13 work, when the work shift exceeds five (5) hours.

14 51. Labor Code section 226.7, subdivision (b) provides that if an employer fails to
15 provide an employee meal periods in accordance with Labor Code section 512 and/or 8 CCR
16 section 11160 (10), the employer shall pay the employee one (1) hour of pay at the employee's
17 regular rate of compensation for each workday that the meal period is not provided in a
18 compliant manner.

19 52. During the Class Period, Defendant was obligated to provide Plaintiffs and
20 putative Class Members with a thirty (30) minute meal period for each and every work shift
21 exceeding five (5) hours, commencing no later than the end of the fifth (5th) hour of the shift. As
22 described above, Defendant prevented Plaintiff and Plaintiff Class from taking timely and
23 uninterrupted meal periods throughout their shifts. Further, Defendant failed to advise Plaintiffs
24 and Plaintiff Class of their meal break rights with respect to timing of meal breaks.

25 53. At all times relevant hereto, Plaintiffs and Plaintiff Class have worked more than
26 five (5) hours in a workday.

27 54. By virtue of the Defendant's unlawful failure to provide legally compliant meal
28 periods to Plaintiffs and Plaintiff Class as a result of their failure to authorize or permit lawful

1 and timely meal periods, Plaintiffs and Plaintiff Class have suffered, and will continue to suffer,
2 damages, in amounts which are presently unknown, but which exceed the jurisdictional limits of
3 this Court and which will be ascertained according to proof at trial.

4 55. Plaintiffs, themselves and on behalf of employees similarly situated, request
5 recovery of meal period compensation pursuant to Labor Code section 226.7, which they are
6 owed beginning four (4) years prior to filing this complaint as well as the assessment of any
7 statutory penalties against Defendants, and each of them, in a sum as provided by the Labor
8 Code and/or any other statute.

9 **THIRD CAUSE OF ACTION**

10 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**

11 **(Plaintiffs and Plaintiff Class against all Defendants)**

12 56. Plaintiffs and Plaintiff Class reallege and incorporate by reference all preceding
13 paragraphs of this complaint as though fully set forth herein.

14 57. Labor Code section 226.7 and California Code of Regulations, Title 8, section
15 11160 (11) provides that employers authorize and permit all employees to take rest periods at
16 the rate of ten (10) minutes rest time per four (4) work hours.

17 58. Labor Code section 226.7, subdivision (b) provides that if an employer fails to
18 provide an employee rest periods in accordance with this section, the employer shall pay the
19 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
20 that the rest period is not provided.

21 59. Defendant did not authorize Plaintiffs and Plaintiff Class to take their ten-minute
22 uninterrupted rest breaks during each four (4) hours of work. Furthermore, Plaintiffs and
23 Plaintiff Class did not receive their rest periods within the required statutory time frame.
24 Further, Plaintiffs and Plaintiff Class were required to remain on premises, were under pressure
25 to finish their assignments, could not leave the store and often their rest breaks were interrupted.
26 By and through their actions, Defendant intentionally and improperly denied rest periods to the
27 Plaintiffs and Plaintiff Class in violation of Labor Code sections 226.7 and 512.

60. At all times relevant hereto, Plaintiffs and Plaintiff Class have worked more than four (4) hours in a workday.

61. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiffs and Plaintiff Class as a result of preventing rest breaks, Plaintiffs and Plaintiff Class have suffered, and will continue to suffer, damages, in amounts which are presently unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

62. Plaintiffs, themselves and on behalf of employees similarly situated, request recovery of rest period compensation pursuant to Labor Code section 226.7, which they are owed beginning four (4) years prior to filing this complaint as well as the assessment of any statutory penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or any other statute.

FOURTH CAUSE OF ACTION

Failure to Provide Accurate Itemized Wage Statements

(Plaintiffs and Plaintiff Class against all Defendants)

63. Plaintiffs and Plaintiff Class reallege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

64. Labor Code section 1174, subdivision (d) requires an employer to keep at a central location in California or at the plant or establishment at which the employees are employed, payroll records showing the hours worked daily, and the wages paid to, each employee. Plaintiff is informed and believes that Defendants willfully failed to make or keep accurate records for Plaintiff and Plaintiff Class.

65. Labor Code section 226, subdivision (a) states that, "every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee; (3) number of piece-rate units earned and any applicable piece rate if employee is paid on a piece rate; (4)

1 all deductions; (5) net wages; (6) the inclusive dates of the period for which the employee is
2 paid; (7) the name of the employee and only the last four digits of his or her social security
3 number or an employee identification number other than a social security number; (8) the name
4 and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect
5 during the pay period and corresponding number of hours worked at each hourly rate by the
6 employee.”

7 66. Industrial Welfare Commission (“IWC”) Wage Orders requires that every
8 employer shall keep accurate information with respect to each employee, including time records
9 showing when each employee begins and ends each work period, the total daily hours worked
10 by each employee and the total hours worked in each payroll period, and applicable rates of pay.
11 Plaintiffs are informed and believe that Defendant willfully and intentionally failed to make
12 and/or keep records which accurately reflect the hours worked by Plaintiffs and Plaintiff Class.
13 Specifically, Plaintiffs believes that Defendant’s records do not accurately reflect the correct
14 amount of gross wages earned, net wages earned, or the applicable hourly rates in effect during
15 the pay period, and the corresponding number of hours worked at each hourly rate.

16 67. Plaintiffs are informed and believe that Defendant’s failure to keep accurate
17 payroll records, as described above, violated Labor Code, sections 226 and 1174, subdivision
18 (d) and the applicable wage order. Plaintiffs and the Plaintiff Class are entitled to penalties of
19 one hundred dollars (\$100.00) for the initial violation and two hundred dollars (\$200.00) for
20 each subsequent violation for every pay period during which these records and information was
21 not kept by Defendant.

22 68. An employee suffering injury as a result of a knowing and intentional failure by
23 an employer to comply with Labor Code sections 226 and 1174, subdivision (a) is entitled to
24 recover the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in
25 which a violation occurs and one hundred dollars (\$100.00) per employee for each violation in a
26 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000.00),
27 and is entitled to an award of costs and reasonable attorney’s fees.

69. Plaintiffs are informed and believes that Defendant's failure to keep and maintain accurate records and information, as described above, were willful, and Plaintiffs and Plaintiff Class are entitled to a statutory penalty of five hundred dollars (\$500.00) for Plaintiff and each member of Plaintiff Class pursuant to Labor Code section 1174.5.

FIFTH CAUSE OF ACTION

Failure to Pay Wages of Terminated or Resigned Employees

(Plaintiffs and Plaintiff Class against all Defendants)

70. Plaintiffs and Plaintiff Class reallege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

71. Plaintiff Mr. Becerra and certain members of the Plaintiff Class who ended their employment with Defendant during the Class Period, were entitled to be promptly paid lawful minimum (prevailing) wages, wages for all hours worked, overtime compensation and other premiums, as required by Labor Code sections 201, 202, and 203. Defendant refused and/or failed to promptly compensate Plaintiff Mr. Becerra and Plaintiff Class wages owed as a result of their failure to provide meal and rest periods as well as pay minimum (prevailing) wages, off-the-clock and/or overtime compensation. Pursuant to Labor Code section 203, such Plaintiffs and Plaintiff Class seek the payment of penalties pursuant to Labor Code section 203, according to proof.

72. Accordingly, Plaintiffs and Plaintiff Class are entitled to attorney's fees and costs, pursuant to Labor Code section 1194 for the underlying claims related to this claim, including but not limited to the recovery of unpaid overtime.

SIXTH CAUSE OF ACTION

Failure to Indemnify for Expenditures

(Plaintiffs and Plaintiff Class against all Defendants)

73. Plaintiffs and Plaintiff Class reallege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

1 74. Labor Code section 2802 states, “An employer shall indemnify his or her
2 employee for all necessary expenditures or losses incurred by the employee in direct
3 consequence of the discharge of his or her duties” (Lab. Code, § 2802.)

4 75. As detailed above, Plaintiffs and the Plaintiff Class were not reimbursed by
5 Defendant for necessary expenditures as a direct consequence of the discharge of their duties.
6 Plaintiffs and Plaintiff Class were required to use their cell phone at all times while working.

7 76. Defendant knowingly, willingly, and intentionally attempted to offset the cost of
8 doing business on the Plaintiffs and Plaintiff Class.

9 77. Defendant has and or had a corporate practice and policy of requiring Plaintiffs
10 and Plaintiff Class to shoulder the burden of Defendant’s cost of doing business by failing to
11 reimburse Plaintiffs and Plaintiff Class for necessary expenditures.

12 78. Accordingly, Plaintiffs and Plaintiff Class are entitled to an award of “necessary
13 expenditures or losses” in accordance with Labor Code section 2802, which shall also include
14 all reasonable costs, including, but not limited to, attorneys’ fees and interest.

15 **SEVENTH CAUSE OF ACTION**

16 **Unfair Competition Law**

17 **(Plaintiffs and Plaintiff Class against all Defendants)**

18 79. Plaintiffs and Plaintiff Class reallege and incorporate by reference all preceding
19 paragraphs of this complaint as though fully set forth herein.

20 80. Business and Professions Code section 17200 et. seq. (also referred to herein as
21 the “Unfair Business Practices Act” or “Unfair Competition Law”) prohibits unfair competition
22 in the form of any unlawful, unfair or fraudulent business act or practice.

23 81. Business and Professions Code section 17204 allows “any person who has
24 suffered injury in fact and has lost money or property as a result of such unfair competition” to
25 prosecute a civil action for violation of the Unfair Competition Law (“UCL”). (Bus. & Prof.
26 Code, § 17204.)

27 82. Labor Code section 90.5, subdivision (a) states that it is the public policy of
28 California to vigorously enforce minimum labor standards in order to ensure employees are not

1 required to work under substandard and unlawful conditions, and to protect employers who
2 comply with the law from those who attempt to gain competitive advantage at the expense of
3 their workers by failing to comply with minimum labor standards.

4 83. Beginning at an exact date unknown to Plaintiffs, but at least four (4) years prior
5 to the filing of this lawsuit, Defendant has committed acts of unfair competition as defined by
6 the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent business
7 practices and acts described in this complaint, including, but not limited to, violations of Labor
8 Code sections 204, 226, 510, 1174, 1197, 1198, 226.7, 512 and 2802 as well as other statutes.

9 84. The violations of these laws and regulations, as well as of the fundamental
10 California public policies protecting workers, serve as unlawful predicate acts and practices for
11 purposes of Business and Professions Code section 17200 et. seq.

12 85. The acts and practices described above constitute unfair, unlawful and fraudulent
13 Business Practices, and unfair competition, within the meaning of Business and Professions
14 Code section 17200 et. seq. Among other things, the acts and practices have forced Plaintiffs
15 and other similarly situated employees to labor for many hours without receiving meal and rest
16 periods and overtime compensation, to which they are entitled by law, while enabling
17 Defendant to gain an unfair competitive advantage over law-abiding employers and
18 competitors.

19 86. As a result of Defendant's acts, Plaintiffs and Plaintiff Class have suffered injury
20 in fact in being denied their statutorily entitled meal and rest periods and full compensation for
21 hours of labor. As a result of Defendant's unlawful acts of unfair competition, Plaintiffs and
22 Plaintiff Class have lost money and property in the form of a loss of wages in an amount to be
23 proven at trial.

24 87. As a direct and proximate result of the aforementioned acts and practices,
25 Plaintiffs and Plaintiff Class have suffered lost wages in an amount to be proven at trial.

26 88. Business and Professions Code section 17203 provides that a court may make
27 such orders or judgments as may be necessary to prevent the use or employment by any person
28 of any practice which constitutes unfair competition. Injunctive relief is necessary and

appropriate to prevent Defendant from repeating their unlawful, unfair and fraudulent business acts and business practices alleged above.

89. Business and Professions Code section 17203 provides that the Court may restore to any person in interest any money or property that may have been acquired by means of such unfair competition. Plaintiffs and Plaintiff Class are entitled to restitution pursuant to Business and Professions Code section 17203 for all wages and payments unlawfully withheld from employees, including the fair value of the rest periods taken away from them, during the four-year period prior to the filing of this Complaint.

90. Business and Professions Code section 17202 provides, “Notwithstanding section 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair competition.” (Bus. & Prof. Code, § 17202.) Plaintiffs and Plaintiff Class are entitled to enforce all applicable penalty provisions of the Labor Code pursuant to Business and Professions Code section 17202.

91. Plaintiffs’ success in this action will enforce important rights affecting public interest, and in that regard, Plaintiffs sue on behalf of the general public, as well as themselves and other similarly situated employees. Plaintiffs and Plaintiff Class seek and are entitled to restitution, civil penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

92. Plaintiffs herein take upon themselves enforcement of these laws and lawful claims. There is a financial burden involved in pursuing this action, the action is seeking to vindicate a public right, and it would be against the interests of justice to penalize Plaintiffs by forcing them to pay attorneys’ fees from the recovery in this action. Attorneys’ fees are appropriate pursuant to Code of Civil Procedure section 1021.5 and otherwise.

EIGHTH CAUSE OF ACTION

For Violation of the California Private Attorneys General Act (“PAGA”)

(Plaintiffs against All Defendants)

93. Plaintiffs reallege and incorporates by reference all preceding paragraphs herein, as if fully alleged herein.

1 94. Labor Code sections 2698-2699.5 provide that a civil penalty, assessed and
2 collected by the Labor and Workforce Development Agency or any of its departments,
3 divisions, commissions, boards, agencies or employees (collectively referred to herein as the
4 “LWDA”) for certain violations of the Labor Code, may be recovered through a civil action by
5 an aggrieved employee on behalf of herself and collectively on behalf of all other current or
6 former employees.

7 95. On September 9, 2021, prior to the filing of this complaint, Plaintiff Martinez
8 gave written notice of the specified provisions alleged to have been violated, including the facts
9 and theories to support the alleged violations, as required by Labor Code section 2699.3.

10 96. On January 29, 2024, Plaintiffs filed an amended written notice of the specified
11 provisions alleged to have been violated, adding Plaintiff Becerra as a PAGA representative.

12 97. The Labor and Workforce Development Agency has not provided Plaintiffs with
13 any notice that it intends to investigate the alleged violations, and more than 65 calendar days
14 have elapsed since the postmark date on Plaintiff’s notices.

15 98. Plaintiffs have therefore exhausted the administrative requirements.

16 99. California Labor Code section 2699, subdivision (a), also known as the Private
17 Attorneys General Act of 2004 (PAGA), states: “Notwithstanding any other provision of law,
18 any provision of this code that provides for a civil penalty to be assessed and collected by the
19 Labor and Workforce Development Agency or any of its departments, divisions, commissions,
20 boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered
21 through a civil action brought by an aggrieved employee on behalf of themselves or herself and
22 other current or former employees pursuant to the procedures specified in Section 2699.3.”

23 100. Plaintiffs are “aggrieved employees” as defined by Labor Code section 2699(c).

24 101. Section 2699(f) of the Labor Code provides for civil penalties for violations of
25 the California Labor Code, for which a specific civil penalty is not provided. In this case,
26 Plaintiff seeks to recover civil penalties for Defendant’s violations of sections 201, 202, 203,
27 204, 226, 226.7, 510, 512, 558(a), 1182.12, 1174, 1194, 1197, 2802, 2698-2699.5 and the
28 applicable IWC Wage Order.

102. Labor Code section 558 provides for the award of civil penalties that includes the amount each employee was underpaid and those underpaid wages are paid to the aggrieved employees.

103. Plaintiffs are informed and believe Defendant at all relevant times employed one or more employees.

104. Section 2699, subdivision (a) provides that civil penalties may be “recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.” (Code Civ. Proc., § 2699, subd. (a).) Section 2699, subdivision (g) provides that an employee who prevails in a civil action under section 2699 shall be entitled to an award of reasonable attorneys’ fees and costs.

105. The State of California, Plaintiffs and aggrieved employees are, therefore, entitled to civil penalties, attorneys' fees and costs, according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and Plaintiff Class pray for judgment as follows:

1. That the Court determine that this action may be maintained as a class action under Code of Civil Procedure section 382;
2. The Court appoint Plaintiff Becerra as Class Representative;
3. The Court appoint Mahoney Law Group, APC as class counsel;
4. For compensatory and statutory damages;
5. For restitution of all monies due to Plaintiff and Class Members from the unlawful/unfair business practices of Defendants;
6. For injunctive relief;
7. For statutory and civil penalties according to proof;
8. For reasonable attorneys' fees and costs pursuant to Labor Code sections 226, subdivision (e), and 1194, Code of Civil Procedure section 1021.5, and/or other applicable law; and

/ / /

/ / /

1 9. That the Court award such other and further relief as this Court may deem
2 appropriate.

3 Dated: August 16, 2024

MAHONEY LAW GROUP, APC

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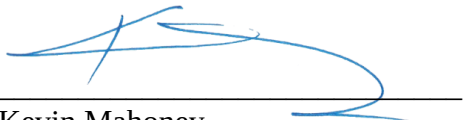
6 Kevin Mahoney
7 Berkeh Alemzadeh
8 Attorneys for Plaintiffs
9 GUILLERMO BECERRA and
10 ARTURO MARTINEZ, as
11 individuals and on behalf of all
12 similarly situated employees
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1
2 **DEMAND FOR JURY TRIAL**

3 Plaintiffs GUILLERMO BECERRA and ARTURO MARTINEZ hereby demand a jury
4 trial on all issues to triable.
5

6
7 Dated: August 16, 2024

MAHONEY LAW GROUP, APC

8 
9

10 Kevin Mahoney
11 Berkeh Alemzadeh
12 Attorneys for Plaintiffs
13 GUILLERMO BECERRA and
14 ARTURO MARTINEZ, as
15 individuals and on behalf of all
16 similarly situated employees
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PROOF OF SERVICE
Code of Civ. Proc. § 1013a, subd. (3)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 249 East Ocean Boulevard, Suite 814, Long Beach, California, 90802.

On **August 16, 2024**, I served [X] true copies [] originals of the following document(s):
FIRST AMENDED COMPLAINT FOR DAMAGES. I served the document(s) on the person(s) below as follows:

Nina Huerta, Esq.
Jordon R. Ferguson, Esq.
LOCKE LORD LLP
400 S. Grand Avenue, Ste. 2600
Los Angeles, CA 90071

Attorneys for Defendant LEGACY FARMS
EMPLOYMENT SERVICES COMPANY, INC.
et. al.

Telephone: (213) 485-1500
Facsimile: (213) 485-1200
Emails: nhuerta@lockelord.com
jordon.ferguson@lockelord.com
kkoch@lockelord.com
Jonevin.sabado@lockelord.com
gmayorga@lockelord.com

The document(s) were served by the following means:

☒ **By e-mail:** Based upon court order or an agreement of the parties to accept service by e-mail, I caused the document(s) to be sent to the persons at the electronic service addresses listed above from the email address edavies-miller@mahoney-law.net. Within a reasonable time after the transmission, no error, electronic message or any other indication that the transmission was unsuccessful was received.

☒ **(State):** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **August 16, 2024**, at Long Beach, California.



Emily Davies-Miller