

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Alexandra R. McIntosh (SBN 320904)
amcintosh@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

ALVIN WILLIAMS, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

K & N ENGINEERING, INC., a California
corporation; and DOES 1 through 100,

Defendants.

Case No. CVRI2104068

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, 1198);**
- (2) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512,
1198);**
- (3) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558,
1198);**
- (4) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (5) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (6) CIVIL PENALTIES UNDER
THE PRIVATE ATTORNEYS
GENERAL ACT (LABOR
CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Alvin Williams (“Plaintiff”), on behalf of himself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint
3 (“Complaint”) against K & N Engineering, Inc.; and DOES 1 to 100, inclusive (collectively,
4 “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200 *et seq.*, Labor Code §§ 201-204, 226.7, 510, 512, 516, 558, 1194, 1198, and 2698
9 *et seq.*; and Industrial Welfare Commission Wage Order 1 (“Wage Order 1”), in addition to
10 seeking declaratory relief and restitution. This Complaint is brought pursuant to California Code
11 of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California
12 Labor Code because the amount in controversy exceeds this Court's jurisdictional minimum.

13 **VENUE**

14 2. Venue is proper in this judicial district pursuant to California Code of Civil
15 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
16 occurred in the County of Riverside. Defendants own, maintain offices, transact business, have
17 an agent or agents within the County of Riverside, and/or otherwise are found within the County
18 of Riverside, and Defendants are within the jurisdiction of this Court for purposes of service of
19 process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is, a California resident. Within the statute of limitations periods
23 applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-
24 exempt employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices
25 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
26 by Labor Code §§ 201-204, 226.7, 510, 512, 516, 558, 1194, 1198, and 2698 *et seq.*; Business &
27 Professions Code § 17200 *et seq.* (“Unfair Competition Law”), and Wage Order 1, which sets
28 employment standards for the manufacturing industry.

1 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
2 years preceding the filing of this action and continuing to the present, Defendants did (and
3 continue to do) business by manufacturing and selling air filters, and employed Plaintiff and other,
4 similarly-situated non-exempt employees within Riverside County and the state of California and,
5 therefore, were (and are) doing business in Riverside County and the State of California.

6 5. Plaintiff does not know the true names or capacities, whether individual, partner,
7 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
8 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
9 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
10 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
11 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
12 and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the
13 unlawful employment practices, wrongs, injuries and damages complained of herein.

14 6. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
15 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

16 7. At all times herein mentioned, each of said Defendants participated in the doing
17 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
18 Defendants, and each of them, were the agents, servants, and employees of each and every one of
19 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
20 were acting within the course and scope of said agency and employment. Defendants, and each
21 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
22 omissions complained of herein.

23 8. At all times mentioned herein, Defendants, and each of them, were members of
24 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
25 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
26 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
27 members of the Classes.

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

10. During Plaintiff's employment with Defendants, Plaintiff often worked over 8 hours per workday and/or more than 40 hours per workweek but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. Specifically, Defendants paid Plaintiff and other non-exempt employees attendance bonuses and other non-discretionary incentive pay, including but not limited to payments denoted as "bonus" and/or other forms of pay that are not excludable from an employee's "regular rate" of pay (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). However, Defendants failed to properly calculate Plaintiff's and other non-exempt employees' regular rates of pay as a result of their receipt of Incentive Pay, thereby miscalculating and underpaying the overtime wages owed to them.

12. Defendants further violated Labor Code § 246 by failing to pay sick pay at the regular rate of pay. As stated above, Plaintiff and other non-exempt employees regularly received non-discretionary attendance bonuses and other Incentive Pay, which increased their regular rate

1 of pay. However, Defendants failed to properly calculate Plaintiff's and other non-exempt
2 employees' regular rates of pay as a result of their receipt of Incentive Pay, thereby miscalculating
3 and underpaying the sick wages owed to them.

4 13. Defendants also failed to authorize and permit Plaintiff and other non-exempt
5 employees from taking legally-compliant rest periods for shifts in excess of 3.5 hours as
6 Defendants implemented a policy/practice which failed to authorize and permit employees to take
7 an off-duty rest period of at least 10 minutes for every four hours worked, or major fraction
8 thereof, and required Plaintiff and other non-exempt employees to remain on the premises during
9 their rest periods in violation of *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257, 260
10 (2016) ("[D]uring required rest periods, employers must relieve their employees of all duties and
11 relinquish any control over how employees spend their break time."). Specifically, prior to 2019,
12 Defendants maintained an unlawful written "Rest Periods – Breaks" policy which states, in
13 relevant part: "Employees **may not leave** the Company property during rest periods for any
14 reason." On those occasions when Plaintiff and other non-exempt employees were not authorized
15 or permitted to take off-duty rest periods, Plaintiff and other non-exempt employees were entitled
16 to rest period premium payments. However, Defendants failed to pay these rest period premiums.
17 Further, upon information and belief, during at least a portion of the relevant time period,
18 Defendants failed to maintain a payroll code or mechanism for the payment of rest period
19 premiums.
20

21 14. As a result of Defendants' failure to pay all overtime wages owed, meal and rest
22 period premium wages owed, and sick pay, Defendants failed to timely pay Plaintiff and other
23 non-exempt employees all wages owed at the time of their respective separations from
24 employment and maintained inaccurate payroll records.

25 15. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations
26 of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020.
27 Accordingly, the relevant time period for each cause of action pled herein has been calculated to
28 include 178 days preceding the filing of this action.

1 **CLASS ACTION ALLEGATIONS**

2 16. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
3 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 4 a. The Overtime Class consists of all of Defendants' current and former non-exempt
5 employees in California who worked in excess of 8 hours per day and/or 40 hours per
6 workweek and received Incentive Pay during the same pay period, during the four
7 years plus 178 days immediately preceding the filing of this action through the present.
- 8 b. The Meal Period Class consists of all Defendants' current and former non-exempt
9 employees in California who (1) worked at least one shift in excess of 5.0 hours
10 without a meal period of at least 30 minutes in duration commencing prior to the
11 conclusion of the fifth hour of work as reflected in their timekeeping records, and who
12 do not have a corresponding meal period premium payment made for such shifts,
13 and/or (2) earned Incentive Pay and were paid one or more meal period premiums
14 during the same pay period at their base rate of pay, during the four years and 178
15 days immediately preceding the filing of the Complaint through the present.
- 16 c. The Rest Period Class consists of all Defendants' current and former non-exempt
17 employees in California who worked at least one shift in excess of 3.5 hours, during
18 the four years and 178 days immediately preceding the filing of the Complaint through
19 the present.
- 20 d. The Waiting Time Class consists of all members of the Overtime Class, Meal Period
21 Class, and/or all non-exempt employees who were paid sick pay during the same pay
22 period in which they earned Incentive Pay, and who separated their employment with
23 Defendants during the three years plus 178 days immediately preceding the filing of
24 this action through the present.

25 17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
26 joinder of all members would be unfeasible and not practicable. The membership of the Classes
27 are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes
28 number greater than fifty (50) individuals. The identity of such membership is readily

ascertainable via inspection of Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants' overtime pay policies resulted in the failure to properly compensate members of the Overtime Class for all overtime hours actually worked;
- ii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iii. Whether Defendants paid meal period premiums at the proper rate of pay to members of the Meal Period Class pursuant to Labor Code § 226.7;
- iv. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- v. Whether Defendants paid sick pay at the proper rate of pay to members of the Waiting Time Class pursuant to Labor Code § 246; and
- vi. Whether Defendants paid all wages/compensation due upon separation to members of the Waiting Time Class pursuant to Labor Code §§ 201-203.

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform payroll policies/practices, Defendants' overtime payment policies/practice, Defendants' meal period policies/practices, Defendants' meal period premium payment policies/practices, Defendants' rest period policies/practices, and Defendants' sick pay policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

20. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because

1 Plaintiff was employed by Defendants as a non-exempt employee in California during the
2 statute(s) of limitations period applicable to each cause of action pled herein. As alleged herein,
3 Plaintiff, like the members of the Classes, was not paid overtime wages, sick pay wages, and/or
4 meal period premiums at the correct rate of pay. Plaintiff further was not provided all legally
5 compliant meal and rest periods and was not paid all wages owed at his time of separation from
6 employment.

7 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
8 to represent fairly and adequately the interests of the members of the Classes. Moreover,
9 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
10 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-
11 hour class actions in state and federal courts in the past and are committed to vigorously
12 prosecuting this action on behalf of the members of the Classes.

13 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
14 an important public interest in establishing minimum working conditions and standards in
15 California. These laws and labor standards protect the average working employee from
16 exploitation by employers who have the responsibility to follow the laws and who may seek to
17 take advantage of superior economic and bargaining power in setting onerous terms and
18 conditions of employment. The nature of this action and the format of laws available to Plaintiff
19 and members of the Classes make the class action format a particularly efficient and appropriate
20 procedure to redress the violations alleged herein. If each employee were required to file an
21 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
22 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
23 their vastly superior financial and legal resources. Moreover, requiring each member of the
24 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
25 employees who would be disinclined to file an action against their former and/or current employer
26 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
27 employment. Further, the prosecution of separate actions by the individual class members, even
28 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications

1 with respect to the individual class members against Defendants herein; and which would
2 establish potentially incompatible standards of conduct for Defendants; and/or legal
3 determinations with respect to individual class members which would, as a practical matter, be
4 dispositive of the interest of the other class members not parties to adjudications or which would
5 substantially impair or impede the ability of the class members to protect their interests. Further,
6 the claims of the individual members of the Class are not sufficiently large to warrant vigorous
7 individual prosecution considering all of the concomitant costs and expenses attending thereto.
8 As such, the Classes identified in Paragraph 16 are maintainable as a Class under C.C.P. § 382.

9 **FIRST CAUSE OF ACTION**

10 **FAILURE TO PAY ALL OVERTIME WAGES**

11 **(AGAINST ALL DEFENDANTS)**

12 23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 24. This cause of action is brought pursuant to Labor Code §§ 510, 558, 1194, and
14 1198, which provide that non-exempt employees are entitled to overtime wages of 1 ½ times (or
15 2 times, in the case of double pay) their “regular rate” of pay, and provide a private right of action
16 for the failure to pay all overtime compensation for overtime work performed.

17 25. At all times relevant herein, Defendants were required to properly compensate
18 non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime
19 hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3
20 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular
21 rate of pay” for work in excess of eight hours per workday and/or in excess of forty hours of work
22 in the workweek. Wage Order 1, § 3 also requires an employer to pay an employee double the
23 employee’s regular rate of pay for work in excess of twelve hours each work day and/or for work
24 in excess of eight hours on the seventh consecutive day of work in the workweek. Defendants
25 caused Plaintiff to work overtime hours, but as alleged herein, did not compensate Plaintiff or
26 members of the Overtime Pay Class at one and one half times their “regular rate” for such hours.

27 26. Defendants’ policy/practice of requiring overtime work and not paying at the
28 proper overtime rates for said work violates California Labor Code §§ 204, 210, 510, 558, 1194,

and 1198; and Wage Order 1.

27. The foregoing policies/practices alleged herein are unlawful and create entitlement to recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid amount of overtime wages, including interest thereon, statutory penalties, civil penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 204, 210, 510, 558, 1194, and 1198; and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

29. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 1, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

30. Defendants' failure to pay all earned wages is unlawful and creates an entitlement to recovery by Plaintiff and the members of the Meal Period Class for unpaid wages, interest on said wages, and attorneys' fees pursuant to Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

32. Wage Order 1, § 12 and California Labor Code §§ 226.7, 516, 558, and 1198 establish the right of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest time for each four (4) hour period worked, or major fraction thereof.

33. As alleged herein, Defendants failed to authorize and permit Plaintiff and members

of the Rest Period Class to take all required and legally-compliant rest periods, and failed to pay rest period premium wages when rest periods were not authorized and permitted.

34. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

36. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages earned immediately at the time of separation of employment in the event the employer discharges the employee, or if the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

37. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at the time of their separation including, among other things, underpaid overtime wages owed, meal and rest period premium wages, and sick pay wages. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

38. Defendants' willful failure to timely pay Plaintiff and members of the Waiting Time Class all earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and members of the Waiting Time Class are entitled to compensation pursuant to Labor Code section

203, plus reasonable attorneys' fees and costs of suit.

FIFTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

40. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by failing to properly pay all overtime wages, meal period premiums, and sick time pay at the correct regular rate of pay, provide all legally compliant meal periods, as well as failing to authorize and permit all required rest periods, or pay premium payments for missed or non-compliant rest periods and failure to pay all wages owed at termination from employment.

41. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

42. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

43. The acts complained of herein occurred within the last four years immediately preceding the filing of the Complaint in this action.

44. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

///

SIXTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(AGAINST ALL DEFENDANTS)

45. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

46. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay Plaintiff, and other aggrieved employees all earned overtime and/or double-time compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- b. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 204, 210, 226.7, 512, 558, and 1198;
- c. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7,

516, 558, and 1198;

- d. Failing to pay Plaintiff and other aggrieved employees sick pay at their respective regular rates of pay in violation of Labor Code §§ 246, 558, and 1198;
- e. Failing to pay Plaintiff and other aggrieved employees all accrued vacation wages at their final rate of pay in violation of Labor Code §§ 246, 558, and 1198;
- f. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- g. Failing to furnish Plaintiff and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code § 558 and 1174.

47. On September 3, 2021, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 46 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

48. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all current and former non-exempt employees who worked for Defendants in California between March 9, 2020, and the present.

49. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to receive under California Labor Code § 2699(g).

PRA YER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
7. Upon the Fourth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§201-203;
8. Upon the Fifth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to violate Business & Professions Code § 17200 *et seq.*;
9. Upon the Sixth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$250.00 for each initial violation

1 and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per
2 pay period; and/or (4) \$100.00 for each initial violation and \$200 for each subsequent violation
3 per employee per pay period for those violations of the Labor Code for which no civil penalty is
4 specifically provided, based on the Labor Code violations identified in Paragraph 46 (a)-(i);

5 10. Prejudgment interest on all due and unpaid wages pursuant to California Labor
6 Code § 218.6 and Civil Code § 3287;

7 11. On all causes of action, for attorneys' fees and costs as provided by Labor Code §
8 1194 and Code of Civil Procedure § 1021.5; and

9 12. For such other and further relief that the Court may deem just and proper.

10
11 Dated: November 8, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

12
13 By:



14 Paul K. Haines
15 Attorneys for Plaintiff

16
17 **DEMAND FOR JURY TRIAL**

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

19
20 Dated: November 8, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

21
22 By:



23 Paul K. Haines
24 Attorneys for Plaintiff