

FILED
Superior Court Of California,
Sacramento
01/14/2022
neanmiguel
By _____, Deputy
Case Number:
34-2021-00310230

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individually and on behalf of all others similarly situated

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

DESHAWN JONES, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

JOHNSON HALLER, INC.; and DOES 1
through 20, inclusive,

Defendant.

Case No. 34-2021-00310230

*Assigned to All Purposes to:
Hon. Richard K. Sueyoshi
Dept. 40*

FIRST AMENDED CLASS ACTION
COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods;
4. Failure to Permit Rest Breaks;
5. Failure to Provide Accurate Itemized Wage Statements;
6. Failure to Pay All Wages Due Upon Separation of Employment;
7. Violation of Business and Professions Code §§ 17200, *et seq.*; and
8. Enforcement of Labor Code § 2698 *et seq.* ("PAGA")

1 Plaintiff Deshawn Jones, individually and on behalf of others similarly situated, alleges
2 as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Deshawn Jones ("Plaintiff") brings this putative class and
5 representative action pursuant to the Private Attorneys General Act of 2004, Cal. Lab. Code. §
6 2698 *et seq.*, against defendant Johnson Haller, Inc.; and DOES 1 through 20, inclusive
7 (collectively, "Defendant"), on behalf of himself individually and a putative class of non-
8 exempt employees employed by Defendant throughout California.

9 2. Defendant is in the restaurant industry.

10 3. Through this action, Plaintiff alleges that Defendant has engaged in a systematic
11 pattern of wage and hour violations under the California Labor Code and Industrial Welfare
12 Commission ("IWC") Wage Orders, all of which contribute to Defendant's deliberate unfair
13 competition.

14 4. Plaintiff is informed and believes, and thereon alleges, that Defendant has
15 increased their profits by violating state wage and hour laws by, among other things:

16 (a) failing to pay all wages (including minimum wages and overtime wages);

17 (b) Failing to provide meal periods or compensation in lieu thereof;

18 (c) Failing to authorize or permit rest breaks or provide compensation in lieu thereof;

19 (d) Failing to provide accurate itemized wage statements; and

20 (e) Failing to pay all wages due upon separation of employment.

21 5. Plaintiff brings this lawsuit seeking monetary relief against Defendant on behalf
22 of himself and all others similarly situated in California to recover, among other things, unpaid
23 wages and benefits, interest, attorneys' fees, costs and expenses and penalties pursuant to Labor
24 Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12,
25 1194, 1194.2, 1197, 1198, and 2698, *et seq.*

26 **JURISDICTION AND VENUE**

27 6. This is a class action, pursuant to California Code of Civil Procedure § 382. The
28 monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdictional limits

1 of the Superior Court and will be established according to proof at trial.

2 7. This Court has jurisdiction over this action pursuant to the California
3 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all
4 causes except those given by statutes to other courts. The statutes under which this action is
5 brought do not specify any other basis for jurisdiction.

6 8. This Court has jurisdiction over all Defendant because, upon information and
7 belief, they are citizens of California, have sufficient minimum contacts in California or
8 otherwise intentionally avail themselves of the California market so as to render the exercise of
9 jurisdiction over them by the California courts consistent with traditional notions of fair play
10 and substantial justice.

11 9. Venue is proper in this Court because, upon information and belief, Defendant
12 resides, transacts business or has offices in this county or the acts and omissions alleged herein
13 took place in this county.

14 **THE PARTIES**

15 10. Plaintiff is a citizen of California. Plaintiff was employed by Defendant during
16 the Class Period in California.

17 11. Plaintiff is informed and believes, and thereon alleges, that Defendant at all
18 times hereinafter mentioned, were and are employers as defined in and subject to the Labor
19 Code and IWC Wage Orders, whose employees were and are engaged throughout this county
20 and the State of California.

21 12. Plaintiff is unaware of the true names or capacities of the defendant sued herein
22 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
23 Complaint and serve such fictitiously named defendant once their names and capacities become
24 known.

25 13. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
26 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
27 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant
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1 are legally attributable to the other defendant. Furthermore, defendant in all respects acted as
2 the employer and/or joint employer of Plaintiff and the class members.

3 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the
4 acts and omissions alleged herein were performed by, or are attributable to, Defendant and/or
5 DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on
6 the other's behalf. The acts of any and all Defendant were in accordance with, and represent,
7 the official policy of Defendant.

8 15. At all relevant times, Defendant, and each of them, acted within the scope of
9 such agency or employment, or ratified each and every act or omission complained of herein.
10 At all relevant times, Defendant, and each of them, aided and abetted the acts and omissions of
11 each and all the other Defendant in proximately causing the damages herein alleged.

12 16. Plaintiff is informed and believes, and thereon alleges, that each of said
13 Defendant is in some manner intentionally, negligently or otherwise responsible for the acts,
14 omissions, occurrences and transactions alleged herein.

15 **CLASS ACTION ALLEGATIONS**

16 17. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of
17 himself and all others similarly situated who were affected by Defendant's Labor Code,
18 Business and Professions Code §§ 17200 and IWC Wage Order violations.

19 18. All claims alleged herein arise under California law for which Plaintiff seeks
20 relief authorized by California law.

21 19. Plaintiff's proposed Class consists of and is defined as follows:

22 **Class**

23 All California citizens currently or formerly employed as non-exempt employees
24 by Defendant in the State of California at any time between April 27, 2017¹ and
the date of class certification.

25 20. Plaintiff also seeks to certify the following Subclass of employees:

26 **Waiting Time Subclass**

27 ¹ The statute of limitations for this matter was tolled pursuant to Cal. Rules of Court, Appendix I,
28 Emergency Rule No. 9.

1 All members of the Class who separated their employment from Defendant at any
2 time between April 27, 2018 and the date of class certification.

3 21. Members of the Class and Subclass described above will be collectively referred
4 to as "class members." Plaintiff reserves the right to establish other or additional subclasses, or
5 modify any Class or Subclass definition, as appropriate based on investigation, discovery and
6 specific theories of liability.

7 22. This action has been brought and may properly be maintained as a class action
8 under the California Code of Civil Procedure § 382 because there are common questions of law
9 and fact as to the Class that predominate over questions affecting only individual members
10 including, but not limited to:

11 (a) Whether Defendants failed to pay Plaintiff and Class Members all wages
12 (including minimum wages and overtime wages) for all hours worked by Plaintiff
13 and Class Members.

14 (b) Whether Defendants required Plaintiff and Class Members to work over eight (8)
15 hours per day, over twelve (12) hours per day, and/or over forty (40) hours per
16 week and failed to pay them proper overtime compensation for all overtime hours
17 worked.

18 (c) Whether Defendant deprived Plaintiff and class members of timely meal periods;

19 (d) Whether Defendant deprived Plaintiff and class members of rest breaks;

20 (e) Whether Defendant failed to timely pay Plaintiff and former class members all
21 wages due upon termination or within 72 hours of resignation;

22 (f) Whether Defendant failed to furnish Plaintiff and class members with accurate,
23 itemized wage statements; and

24 (g) Whether Defendant engaged in unfair business practices in violation of Business &
25 Professions Code §§ 17200, *et seq.*

26 23. There is a well-defined community of interest in this litigation and the Class is
27 readily ascertainable:
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1 (a) Numerosity: The members of the Class are so numerous that joinder of all
2 members is impractical. Although the members of the Class are unknown
3 to Plaintiff at this time, on information and belief, the Class is estimated to
4 be greater than 100 individuals. The identity of the class members are
5 readily ascertainable by inspection of Defendant's employment and payroll
6 records.

7 (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the
8 claims (or defenses, if any) of the Class because Defendant's failure to
9 comply with the provisions of California wage and hour laws entitled each
10 class member to similar pay, benefits and other relief. The injuries
11 sustained by Plaintiff are also typical of the injuries sustained by the Class
12 because they arise out of and are caused by Defendant's common course of
13 conduct as alleged herein.

14 (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately represent
15 and protect the interests of all members of the Class because it is in her best
16 interest to prosecute the claims alleged herein to obtain full compensation
17 and penalties due to her and the Class. Plaintiff's attorneys, as proposed
18 class counsel, are competent and experienced in litigating large
19 employment class actions and are versed in the rules governing class action
20 discovery, certification and settlement. Plaintiff has incurred and,
21 throughout the duration of this action, will continue to incur attorneys' fees
22 and costs that have been and will be necessarily expended for the
23 prosecution of this action for the substantial benefit of each class member.

24 (d) Superiority: The nature of this action makes the use of class action
25 adjudication superior to other methods. A class action will achieve
26 economies of time, effort and expense as compared with separate lawsuits,
27 and will avoid inconsistent outcomes because the same issues can be
28 adjudicated in the same manner and at the same time for each Class. If

1 appropriate this Court can, and is empowered to, fashion methods to
2 efficiently manage this case as a class action.

3 (e) Public Policy Considerations: Employers in the State of California and
4 other states violate employment and labor laws every day. Current
5 employees are often afraid to assert their rights out of fear of direct or
6 indirect retaliation. Former employees are fearful of bringing actions
7 because they believe their former employers might damage their future
8 endeavors through negative references and/or other means. Class actions
9 provide the class members who are not named in the complaint with a
10 type of anonymity that allows for the vindication of their rights at the
11 same time as affording them privacy protections.

12 GENERAL ALLEGATIONS

13 24. At all relevant times mentioned herein, Defendant employed Plaintiff and other
14 persons as non-exempt employees.

15 25. Plaintiff was employed in a non-exempt position at Defendant's California
16 business location(s).

17 26. Defendant continues to employ non-exempt employees within California.

18 27. Plaintiff is informed and believes, and thereon alleges, that at all times herein
19 mentioned, Defendant was advised by skilled lawyers, employees and other professionals who
20 were knowledgeable about California's wage and hour laws, employment and personnel
21 practices and the requirements of California law.

22 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and Class Members were entitled to receive wages for all time
24 worked (including minimum wages and overtime wages) and that they were not receiving all
25 wages earned for work that was required to be performed. In violation of the Labor Code and
26 IWC Wage Orders, Plaintiff and Class Members were not paid all wages (including minimum
27 wages and overtime wages) for all hours worked.

1 29. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
2 should have known that Plaintiff and class members were entitled to receive all required meal
3 periods or payment of one (1) additional hour of pay at Plaintiff and class members' regular
4 rate of pay when they did not receive a timely meal period. In violation of the Labor Code and
5 IWC Wage Orders, Plaintiff and class members did not receive all timely meal periods or
6 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay
7 when they did not receive a timely meal period.

8 30. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
9 should have known that Plaintiff and class members were entitled to receive all rest breaks or
10 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay
11 when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiff
12 and class members did not receive all rest breaks or payment of one (1) additional hour of pay
13 at Plaintiff and class members' regular rate of pay when a rest break was missed.

14 31. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
15 should have known that Plaintiff and class members were entitled to receive itemized wage
16 statements that accurately showed their gross and net wages earned, inclusive dates of pay
17 periods, total hours worked and all applicable hourly rates in effect and the number of hours
18 worked at each hourly rate in accordance with California law. In violation of the Labor Code,
19 Plaintiff and class members were not provided with accurate itemized wage statements.

20 32. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
21 should have known that Plaintiff and Waiting Time Subclass members were entitled to timely
22 payment of wages due upon separation of employment. In violation of the Labor Code,
23 Plaintiff and Waiting Time Subclass members did not receive payment of all wages within
24 permissible time periods.

25 33. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
26 should have known they had a duty to compensate Plaintiff and class members, and Defendant
27 had the financial ability to pay such compensation but willfully, knowingly and intentionally
28 failed to do so all in order to increase Defendant's profits.

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FIRST CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(Violation of Labor Code §§ 1194, 1194.2, and 1197; Violation of IWC Wage Order §3-4)

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

35. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

36. Plaintiff and Class Members were employees entitled to the protections of Labor Code §§ 1194 and 1197.

37. During the relevant time period, Defendants failed to pay Plaintiff and Class Members all wages owed when Defendants did not pay for all hours worked.

38. During the relevant time period, Defendants failed to pay at least minimum wage to Plaintiff and Class Members for all hours worked pursuant to Labor Code §§ 1194 and 1197.

39. Defendants' failure to pay Plaintiff and Class Members the required minimum wage violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorneys' fees.

40. Pursuant to Labor Code § 1194.2, Plaintiff and Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued interest thereon.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order § 3)

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

1 42. Labor Code § 1198 and the applicable IWC Wage Order provide that it is
2 unlawful to employ persons without compensating them at a rate of pay either one and one-half
3 (1½) or two (2) times the person's regular rate of pay, depending on the number of hours
4 worked by the person on a daily or weekly basis.

5 43. Specifically, the applicable IWC Wage Orders provide that Defendants are and
6 were required to pay overtime compensation to Plaintiff and Class Members at the rate of one
7 and one-half times (1½) their regular rate of pay when working and for all hours worked in
8 excess of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first
9 eight (8) hours of work on the seventh day of work in a workweek.

10 44. The applicable IWC Wage Orders further provide that Defendants are and were
11 required to pay overtime compensation to Plaintiff and Class Members at a rate of two times
12 their regular rate of pay when working and for all hours worked in excess of twelve (12) hours
13 in a day or in excess of eight (8) hours on the seventh day of work in a workweek.

14 45. California Labor Code § 510 codifies the right to overtime compensation at one
15 and one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in
16 a day or forty (40) hours in a week and for the first eight (8) hours worked on the seventh
17 consecutive day of work, and overtime compensation at twice the regular hourly rate for hours
18 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
19 seventh day of work in a workweek.

20 46. Labor Code § 510 and the applicable IWC Wage Orders provide that
21 employment of more than six days in a workweek is only permissible if the employer pays
22 proper overtime compensation as set forth herein.

23 47. Plaintiff and Class Members were employees entitled to the protections of
24 California Labor Code §§ 510 and 1194.

25 48. During the relevant time period, Defendants required Plaintiff and Class
26 Members to work in excess of eight (8) hours in a day, forty (40) hours in a week, and/or on a
27 seventh consecutive day of work, entitling them to overtime wages.

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49. During the relevant time period, Defendants failed to pay Plaintiff and Class Members overtime wages for all overtime hours worked. To the extent these hours qualify for the payment of overtime wages, Plaintiff and Class Members were not paid proper overtime wages.

50. In violation of California law, Defendants knowingly and willfully refused to perform their obligations and compensate Plaintiff and Class Members for all wages earned and all hours worked.

51. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of overtime compensation, as required by California law, violates the provisions of Labor Code §§ 510 and 1198, and is therefore unlawful.

52. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to recover their unpaid overtime and double time compensation as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order § 11)

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

54. Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by the IWC Wage Orders.

55. Section 11 of the applicable IWC Wage Order states, “no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.”

56. Labor Code § 512(a) provides that an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if

1 the total work period per day of the employee is not more than six (6) hours, the meal period
2 may be waived by mutual consent of both the employer and the employee.

3 57. Labor Code § 512(a) also provides that an employer may not employ an
4 employee for a work period of more than ten (10) hours per day without providing the employee
5 with a second meal period of not less than thirty (30) minutes, except that if the total hours
6 worked is no more than twelve (12) hours, the second meal period may be waived by mutual
7 consent of the employer and the employee only if the first meal period was not waived.

8 58. During the relevant time period, Plaintiff and class members did not receive
9 compliant meal periods for each five hours worked per day.

10 59. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require
11 an employer to pay an employee one additional hour of pay at the employee's regular rate of
12 compensation for each work day that a meal period is not provided.

13 60. At all relevant times, Defendant failed to pay Plaintiff and class members meal
14 period premiums for meal period violations pursuant to Labor Code § 226.7(b) and section 11
15 of the applicable IWC Wage Order.

16 61. As a result of Defendant's failure to pay Plaintiff and class members an
17 additional hour of pay for each day a meal period was not provided, Plaintiff and class members
18 suffered and continue to suffer a loss of wages and compensation.

19 **FOURTH CAUSE OF ACTION**

20 **FAILURE TO PERMIT REST BREAKS**

21 **(Violation of Labor Code §§ 226.7; Violation of IWC Wage Order § 12)**

22 62. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
23 though fully set forth herein.

24 63. Labor Code § 226.7(a) provides that no employer shall require an employee to
25 work during any rest period mandated by the IWC Wage Orders.

26 64. Section 12 of the applicable IWC Wage Order states "every employer shall
27 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
28 the middle of each work period" and the "authorized rest period time shall be based on the total

1 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
2 fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

3 65. During the relevant time period, Plaintiff and class members did not receive a ten
4 (10) minute rest period for every four (4) hours or major fraction thereof worked.

5 66. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order
6 requires an employer to pay an employee one additional hour of pay at the employee's regular
7 rate of compensation for each work day that the rest period is not provided.

8 67. At all relevant times, Defendant failed to pay Plaintiff and class members rest
9 period premiums for rest period violations pursuant to Labor Code § 226.7(b) and section 12 of
10 the applicable IWC Wage Order.

11 68. As a result of Defendant's failure to pay Plaintiff and class members an
12 additional hour of pay for each day a rest period was not provided, Plaintiff and class members
13 suffered and continue to suffer a loss of wages and compensation.

14 **FIFTH CAUSE OF ACTION**

15 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

16 **(Violation of Labor Code § 226)**

17 69. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
18 though fully set forth herein.

19 70. Labor Code § 226(a) requires Defendant to provide each employee with an
20 accurate wage statement in writing showing nine pieces of information, including: (1) gross
21 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
22 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
23 deductions, provided that all deductions made on written orders of the employee may be
24 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period
25 for which the employee is paid, (7) the name of the employee and the last four digits of his or
26 her social security number or an employee identification number other than a social security
27 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
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1 hourly rates in effect during the pay period and the corresponding number of hours worked at
2 each hourly rate by the employee.

3 71. During the relevant time period, Defendant has knowingly and intentionally
4 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff
5 and class members. The deficiencies include, among other things, the failure to correctly state
6 accurate inclusive dates of the pay period for Plaintiff and class members.

7 72. As a result of Defendant's violation of California Labor Code § 226(a), Plaintiff
8 and class members have suffered injury and damage to their statutorily protected rights.
9 Specifically, Plaintiff and class members have been injured by Defendant's intentional
10 violation of California Labor Code § 226(a) because they were denied both their legal right to
11 receive, and their protected interest in receiving, accurate itemized wage statements under
12 California Labor Code § 226(a). Plaintiff has had to file this lawsuit in order to determine the
13 extent of the underpayment of wages, thereby causing Plaintiff to incur expenses and lost time.
14 Plaintiff would not have had to engage in these efforts and incur these costs had Defendant
15 provided the accurate wages earned. This has also delayed Plaintiff's ability to demand and
16 recover the underpayment of wages from Defendant.

17 73. California Labor Code § 226(a) requires an employer to pay the greater of all
18 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
19 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
20 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
21 comply with California Labor Code § 226(a).

22 74. Defendant's violations of California Labor Code § 226(a) prevented Plaintiff
23 and class members from knowing, understanding and disputing the wages paid to them, and
24 resulted in an unjustified economic enrichment to Defendant. As a result of Defendant's
25 knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiff and
26 class members have suffered an injury, and the exact amount of damages and/or penalties is all
27 in an amount to be shown according to proof at trial.

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1 75. Plaintiff and class members are also entitled to injunctive relief under California
2 Labor Code § 226(h), compelling Defendant to comply with California Labor Code § 226, and
3 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

4 **SIXTH CAUSE OF ACTION**

5 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT AND**
6 **WITHIN THE REQUIRED TIME**

7 **(Violation of Labor Code §§ 201, 202 and 203)**

8 76. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
9 though fully set forth herein.

10 77. California Labor Code §§ 201 and 202 provide that if an employer discharges an
11 employee, the wages earned and unpaid at the time of discharge are due and payable
12 immediately, and that if an employee voluntarily leaves his employment, his wages shall
13 become due and payable not later than seventy-two (72) hours thereafter, unless the employee
14 has given seventy-two (72) hours previous notice of his intention to quit, in which case the
15 employee is entitled to his wages at the time of quitting.

16 78. During the relevant time period, Defendant willfully failed to pay Plaintiff and
17 Waiting Time Subclass members all their earned wages upon termination including, but not
18 limited to, proper minimum wages and overtime compensation, either at the time of discharge
19 or within seventy-two (72) hours of their leaving Defendant's employ.

20 79. Defendant's failure to pay Plaintiff and Waiting Time Subclass members all
21 their earned wages at the time of discharge or within seventy-two (72) hours of their leaving
22 Defendant's employ is in violation of Labor Code §§ 201 and 202.

23 80. California Labor Code § 203 provides that if an employer willfully fails to pay
24 wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201
25 and 202, then the wages of the employee shall continue as a penalty from the due date at the
26 same rate until paid or until an action is commenced; but the wages shall not continue for more
27 than thirty (30) days.

1 81. Plaintiff and Waiting Time Subclass members are entitled to recover from
2 Defendant the statutory penalty which is defined as Plaintiff's and Waiting Time Subclass
3 members' regular daily wages for each day they were not paid, at their regular hourly rate of
4 pay, up to a thirty (30) day maximum pursuant to Labor Code § 203.

5 **SEVENTH CAUSE OF ACTION**

6 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

7 82. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
8 though fully set forth herein.

9 83. Defendant's conduct, as alleged herein, has been and continues to be unfair,
10 unlawful and harmful to Plaintiff and class members. Plaintiff seek to enforce important rights
11 affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

12 84. Defendant's activities, as alleged herein, violate California law and constitute
13 unlawful business acts or practices in violation of California Business and Professions Code
14 §§ 17200, *et seq.*

15 85. A violation of Business and Professions Code §§ 17200, *et seq.* may be
16 predicated on the violation of any state or federal law.

17 86. Defendant's policies and practices have violated state law in at least the
18 following respects:

- 19 (a) Failing to pay all wages earned (including minimum wage and overtime
20 wages) to Plaintiff and Class Members at the proper rate in violation of
21 Labor Code §§ 204, 510, 1182.12, 1194, 1194.2, 1197, and 1198.
- 22 (b) Failing to provide timely meal periods without paying Plaintiff and class
23 members premium wages for every day said meal periods were not
24 provided in violation of Labor Code §§ 226.7 and 512;
- 25 (c) Failing to authorize or permit rest breaks without paying Plaintiff and
26 class members premium wages for every day said rest breaks were not
27 authorized or permitted in violation of Labor Code § 226.7;
- 28

- 1 (d) Failing to provide Plaintiff and class members with accurate itemized
2 wage statements in violation of Labor Code § 226; and
3 (e) Failing to timely pay all earned wages to Plaintiff and Waiting Time
4 Subclass members upon separation of employment in violation of Labor
5 Code §§ 201, 202 and 203.

6 87. Defendant intentionally avoided paying Plaintiff and class members' wages and
7 monies, thereby creating for Defendant an artificially lower cost of doing business in order to
8 undercut their competitors and establish and gain a greater foothold in the marketplace.

9 88. By violating the foregoing statutes and regulations as herein alleged,
10 Defendants' acts constitute unfair and unlawful business practices under California Business
11 and Professions Code §§ 17200, et seq.

12 89. As a result of the unfair and unlawful business practices of Defendants as
13 alleged herein, Plaintiff and Class Members are entitled to injunctive relief, disgorgement, and
14 restitution in an amount to be shown according to proof at trial.

15 90. Plaintiff seeks to enforce important rights affecting the public interest within the
16 meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged
17 herein, has been and continues to be unfair, unlawful, and harmful to Plaintiff, Class Members,
18 and the general public. Based on Defendants' conduct as alleged herein, Plaintiff and Class
19 Members are entitled to an award of attorneys' fees pursuant to California Code of Civil
20 Procedure § 1021.5.

21 EIGHTH CAUSE OF ACTION

22 ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")

23 91. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs as
24 though fully set forth herein.

25 92. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
26 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
27 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
28 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by

1 an aggrieved employee on behalf of himself or herself and other current or former employees
2 pursuant to the procedures specified in Labor Code § 2699.3.

3 93. For all provisions of the Labor Code except those for which a civil penalty is
4 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
5 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
6 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
7 period in which Defendants violated these provisions of the Labor Code.

8 94. Defendants' conduct violates numerous Wage Order and Labor Code sections,
9 including, but not limited to, the following:

- 10 a. violation of Labor Code §§ 201, 202, 203, 204, 210, and 1198 for failure
11 to timely pay all earned wages owed to Plaintiff and other aggrieved
12 employees during employment and upon separation of employment as
13 herein alleged;
- 14 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
15 periods to Plaintiff and other aggrieved employees and failure to pay
16 premium wages for missed meal periods as herein alleged;
- 17 c. violation of Labor Code § 226.7 for failure to permit rest breaks to
18 Plaintiff and other aggrieved employees and failure to pay premium wages
19 for missed rest periods as herein alleged;
- 20 d. violation of Labor Code § 226 for failure to provide accurate itemized
21 wage statements to Plaintiff and other aggrieved employees as herein
22 alleged; and
- 23 e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
24 accurate and complete records showing, among other things, the hours
25 worked daily by and the wages paid to aggrieved employees.

26 95. Plaintiff is an "aggrieved employee" because he was employed by the alleged
27 violator and had one or more of the violations committed against him, and therefore is properly
28 suited to represent the interests of all other aggrieved employees.

1 or fraudulent and, therefore, constituting unfair competition under Business and Professions
2 Code §§ 17200, *et seq.*;

3 11. For an award of damages in the amount of unpaid compensation including, but
4 not limited to, unpaid wages, benefits and penalties, including interest thereon;

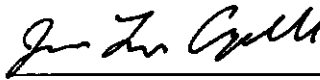
5 12. For pre-judgment interest;

6 13. For civil penalties; and

7 14. For such other relief as the Court deems just and proper.

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9 Dated: January 14, 2022

AEGIS LAW FIRM, PC

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11 By: 

12 Jessica L. Campbell
13 Attorneys for Plaintiff Deshawn Jones
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