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8 **SAN DIEGO COUNTY SUPERIOR COURT**

9 **STATE OF CALIFORNIA**

10 **HALL OF JUSTICE**

11 **---o0o---**

12 ALFREDO HURTADO, an individual,
13 Plaintiff,

14 vs.

15 SHARI LYNNE LOPEZ, an individual doing
16 business as LOPEZ AUTO DETAILING;
17 MICHAEL STANLEY, an individual doing
18 business as LOPEZ AUTO DETAILING;
19 BALL AUTOMOTIVE GROUP, A California
20 Corporation doing business as BALL KIA;
21 SUNROAD CV AUTO, INC. A California
22 Corporation doing business as TOYOTA
23 SCION CHULA VISTA and DOES 1-10,
24 individuals unknown; DOES 10 -20 business
25 entities, forms unknown and DOES 21-30,
26 inclusive

Case No: 37-2022-00012098-CU-OE-CTL

Unlimited Civil – Amount Exceeds \$25,000

**COMPLAINT FOR EQUITABLE RELIEF,
INJUNCTION AND PROVISIONAL
REMEDY:**

1. Failure To Pay Minimum Wage
2. Failure To Pay Wages Promptly After Termination
3. Failure To Provide Uninterrupted Meal Breaks
4. Failure To Pay Overtime
5. Liquidated Damages on Failure to Pay Minimum Wage
6. Itemized Wage Statements and Recordkeeping
7. Wrongful Termination
8. Bus. & Prof. C. Sec. 17200
9. Possession Of Stolen Property
10. Retaliation
11. PAGA Violations
12. Inspection Of Employment Records
13. Copies Of Employee Records
14. Employment Instruments
15. Employment Records Via Bus. & Prof. C. Sec. 17200

PLAINTIFF, ALFREDO HURTADO, sues all above-named defendants for California wage and hours violations payable by all named Defendants to Plaintiff, or remedies alternatively plead, who have been summoned to answer by said Plaintiff by virtue of writ of summons issued by this Court and alleges as follows:

NATURE OF COMPLAINT

1. This action concerns non-payment of wages owed to Plaintiff amongst other various Labor Code violations.

2. DEFENDANTS and DOES 1-30, inclusive, labor under the delusion that they may usurp labor and not pay minimum wage or overtime. Rather and indeed, Defendants' scheme and management of Plaintiff and his labor turned Plaintiff into their personal slave or indentured servants in Violation of California Constitution Art. I, § 6.

PARTIES, VENUE & JURISDICTION

3. Plaintiff ALFREDO HURTADO (hereinafter “HURTADO” “Plaintiff”) is an individual and a resident of the County of San Diego, California.

4. Defendants SHARI LYNNE LOPEZ (“LOPEZ”) and MICHAEL STANLEY (“STANLEY”) upon, on information and belief, are individuals doing business as LOPEZ AUTO DETAILING (“AUTO”) in the State of California with its principal place of business in Los Angeles County. Plaintiff further alleges that both LOPEZ and STANLEY are personally liable for the actions complained herein and throughout under the Fair Day’s Pay Act Cal. Lab. C. § 558.1

5. Upon information and belief BALL AUTOMOTIVE GROUP, INC. does business as BALL KIA (“BALL KIA”) in the Greater San Diego area and is a California Corporation. BALL KIA is liable for the causes of action herein under California joint employer theory.

6. Upon information and belief SUNROAD CV AUTO, INC. (“SUNROAD”) does business as TOYOTA SCION CHULA VISTA in the Greater San Diego area and is a California Corporation. SUNROAD is liable for the causes of action herein under California joint employer theory.

7. The true names and capacities of defendants named herein John/Jane Does 1

1 through 30, inclusive, whether individual, corporate, associate, or otherwise are unknown to
2 Plaintiff, who therefore sues such defendants by fictitious names pursuant to California Code of
3 Civil Procedure § 474. Plaintiff will amend this Complaint to show such true names and
4 capacities of Does 1 through 30, inclusive, when they have been determined

5 8. Defendants and Does 1 through 30 are collectively referred to as Defendants.

6 9. This Court has personal jurisdiction over Defendants pursuant to the California
7 Constitution, Article VI, § 10, and the California Code of Civil Procedure (“CCP”) §410.10 in
8 that each of the Defendants do undertake substantial business activities in the County of San
9 Diego; each of the named Defendants have purposely availed themselves of the benefits of doing
10 business in this County and State, and Defendants violations of law allege herein occurred, in
11 whole or in part, in the County of San Diego.

12 **GENERAL ALLEGATION**

13 10. Defendants own and operate a mobile auto detailing and car wash services to
14 automobile dealerships in the City of San Diego with a primary jobsite at the premises of both
15 BALL KIA and SUNROAD amongst other whom AUTO, LOPEZ and STANLEY contract.

16 11. For three years before HURTADO’s termination in 2021, AUTO, LOPEZ, and
17 STANLEY supplied a workforce to BALL KIA and SUNROAD.

18 12. Plaintiff routinely works 6 days a week, Monday through Friday 7 a.m. through 9
19 p.m. and Saturdays 8 a.m. to 10 p.m. However, Defendants do not and have not tracked the actual
20 hours worked by Plaintiff. Instead, he is paid a flat rate of \$600 on a check amounting to less than
21 minimum wage.

22 13. At no point during the duration of his employment was Plaintiff paid a premium
23 overtime rate for his hours worked in excess of eight in a day and/or forty in a week.

24 14. At no point has Plaintiff been permitted to rest periods. Plaintiff was permitted to
25 take meal periods, if at all, and only when authorized by a supervisor. Plaintiff was only
26 permitted to take a meal break which is often after the fifth hour of work.

27 15. The wage statements, if any at all, provided to Plaintiff were deficient in that they
28 lacked, amongst other things, the actual hours worked by Plaintiff and his overtime rate of pay.

1 Defendants' wage and hour violations are ongoing.

2 16. All named Defendants are and were Plaintiff's employers during the relevant time
3 period. At all times relevant to this action, Defendants suffered and permitted Plaintiff to perform
4 work on their behalf. At all times relevant to this action, Plaintiff performed his job duties under
5 the control and direction of all named Defendants as a supplied workforce for each dealership
6 placed.

7 17. At all times relevant to this action, Plaintiff performed work that was within the
8 usual course of Defendants' business. In fact, Plaintiff served a vital and foundational role in
9 Defendants' operation in the new automobile inventory wash maintenance.

10 18. At all times relevant to this action, Plaintiff was not customarily engaged in an
11 independently established trade, occupation, or business of the same nature as the work
12 performed on behalf of Defendants.

13 19. Defendants did not furnish Plaintiff with legally compliant wage statements, did
14 not pay employer-side payroll taxes, did not pay Plaintiff for time spent performing non-sales
15 activities, and did not pay overtime premiums. Defendants did not reimburse Plaintiff for business
16 expenses incurred in the course and scope of his employment with Defendants, and, in fact,
17 deducted Defendants' own business expenses from the wages paid to Plaintiff. When Defendants
18 ended Plaintiff's employment, his final pay was not only paid on an untimely basis under the
19 California Labor Code but did not include unpaid wages and/or overtime premiums that had
20 accrued during the course of his tenure.

21 20. On or about November 2021, Counsel for Plaintiff sent a written request to
22 produce employment records consisting of the personnel record, payroll information, and all
23 documents bearing Plaintiff's signature contemplated by relevant statutes namely Labor Code
24 sections 226, 432, and 1198.5.

25 21. Employment Records never came, and more than 30 days have passed. As of the
26 date of this filing Defendants have yet to respond.

27 22. This substantive right of enquiry was triggered in part based on Plaintiff's
28 allegations of wage and hour irregularities in that there was noticeable time shaving for all hours

1 worked. For example, Plaintiff was aware of and complained that although he regularly worked
2 in excess of 40 hours every two weeks, his hours were being reduced to amounts of only 70 hours
3 (or lower) per pay period.

4 23. When Plaintiff protested yet another wage discrepancy, at best, but wage theft in
5 reality, Plaintiff's complaints were met with a pretext that he was committing corporate espionage
6 in attempting to buildout a new business and work directly with automobile dealerships. This
7 pretext was used to justify not paying Plaintiff income wages. The temporal timing between the
8 Plaintiff protests over wages and the adverse employment action belie any legally cognizable
9 basis for termination with or without cause.

10 **FIRST CAUSE OF ACTION**

11 **(Violation of California Labor Code §§ 1194 and 1197**

12 **Failure to Pay Minimum Wage – Against all Defendants)**

13 24. Plaintiff refers to and incorporates herein by reference the previous as though fully
14 set forth herein.

15 25. California Labor Code § 1194 authorizes employees who received less than the
16 legal minimum wage to recover the unpaid balance of minimum wages owed, interest, reasonable
17 attorney's fees, and costs of suit.

18 26. At all times relevant to this action, Defendants failed to pay at least the applicable
19 minimum wage for all hours worked as a result of Defendants' practices of "rounding" non-
20 exempt employee hours and requiring uniformed staff to don their uniforms on Defendants'
21 premises before clocking in for their shift.

22 27. Defendants acted intentionally, oppressively, and maliciously toward Plaintiff,
23 with a conscious disregard of their rights, or the consequences to them, with the intent of
24 depriving them of property and legal rights and otherwise causing them injury.

25 28. As a proximate cause of the aforementioned violations, Plaintiff has been damaged
26 in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
27 this Court. Plaintiff is entitled to recover the unpaid balance of wages owed, penalties, including
28 penalties available pursuant to California Labor Code §§ 558 and 1197.1(a) (1–2), liquidated

1 damages pursuant to California Labor Code § 1194.2(a), plus interest, and reasonable attorneys'
2 fees and costs of suit according to California Labor Code § 1194, et seq.

3 **SECOND CAUSE OF ACTION**

4 **(Failure to Pay Wages Promptly After Termination - Labor Code § 203; 218.5)**

5 **Against All Defendants**

6 29. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
7 though fully set forth herein.

8 30. Labor Code § 201 requires employers to pay all compensation due and owing to
9 their employees immediately upon discharge.

10 31. Labor Code § 203 provides that if an employer willfully fails to pay compensation
11 promptly upon discharge or resignation, as required by section 201, then the employer is liable for
12 "waiting time" penalties in the form of continued compensation up to thirty workdays.
13 Defendants failed to pay Plaintiff all wages due immediately upon termination as required by
14 Labor Code § 201. To date, Defendants have still not paid Plaintiff all earned wages.

15 32. Defendants willfully failed to pay Plaintiff's wages pursuant to the requirements of
16 Labor Code § 201, and, therefore, Plaintiff is entitled to recover unpaid wages, waiting-time
17 penalties under Labor Code § 203, plus attorneys' fees and costs pursuant to Labor Code § 218.5,
18 in an amount to be established according to proof at trial.

19 **THIRD CAUSE OF ACTION**

20 **(Failure to Provide Uninterrupted Meal Breaks Labor Code §§ 226. 7 and 512; Wage Order**

21 **9 – Transportation Industry)**

22 **Against All Defendants**

23 33. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
24 though fully set forth herein.

25 34. As a pattern and practice, in violation of Labor Code §§ 226.7 and 512 and Wage
26 Order 9 § 11, Defendants regularly denied Plaintiff an uninterrupted, duty-free meal break of at
27 least thirty minutes after five hours and ten hours of work.

28 35. Defendants failed to pay to Plaintiff an additional one hour's pay at Plaintiff's

1 regular rate of pay for each occasion upon which this occurred, as required pursuant to the Labor
2 Code. Resultantly, Plaintiff is entitled to a penalty of one hour's pay at Plaintiffs regular rate of
3 pay for each occasion upon which Plaintiff was denied an uninterrupted, duty-free meal break of
4 at least thirty minutes after five hours or ten hours of work, along with interest thereon pursuant
5 to Labor Code § 218.6.

6 **FOURTH CAUSE OF ACTION**

7 **(Failure to Pay Overtime - Labor Code §§ 204, 510 and 1194 and 512; Wage Order 9 –**
8 **Transportation Industry)**
9 **Against All Defendants**

10 36. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
11 though fully set forth herein.

12 37. Labor Code § 510 states that an employee must be paid overtime, equal to one and
13 one-half (1 & ½) times the employee's regular rate of pay, for all hours worked in excess of eight
14 (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and
15 the first eight (8) hours worked on the seventh day of work in any one workweek.

16 38. Labor Code § 510 also states that any work in excess of twelve (12) hours in one
17 day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.

18 39. Wage Order 9 § 3, which governs the profession of Plaintiff herein, states that an
19 “employee must be paid overtime; equal to one and one-half (1 ½) times the employee's regular
20 rate of pay, for all hours worked in excess of eight (8) hours in one workday and any work in
21 excess of forty (40) hours in any one workweek. "Hours worked" is defined as: "the time during
22 which an employee is subject to the control of an employer, this includes all the time the
23 employee is suffered and permitted to work, whether or not required to do so." (Wage Order 9 §
24 2(K)).

25 40. Plaintiff is entitled to bring a civil action to recover on claims involving failure to
26 pay overtime pursuant to Labor Code § 1194.

27 41. Plaintiff worked more than forty (40) hours per week and/or eight (8) hours per
28 day but was not paid overtime wages for such work.

42. Defendants have failed and refused to pay overtime compensation to Plaintiff.

43. Pursuant to Labor Code § 1194, Plaintiff is entitled to recover unpaid overtime compensation, interest thereon, and attorneys' fees and costs, as well as civil penalties pursuant to Labor Code §§ 558, 558.1 in an amount to be established according to proof at trial.

FIFTH CAUSE OF ACTION

(Liquidated Damages for Failure to Pay Minimum Wage -Labor Code §§ 1194.2)

Against All Defendants

44. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

45. Pursuant to Labor Code § 1194.2, in any action under § 1194 to recover wages as a result of payment less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

46. Plaintiff was not paid at least the minimum wage for all hours worked, as required by the Labor Code and Wage Order 9 § 4.

47. Plaintiff is entitled to recover liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon, plus attorneys' fees and costs, in an amount to be established according to proof at trial.

SIXTH CAUSE OF ACTION

(Itemized Wage Statement and Recordkeeping Violations of Cal. Labor Code §§ 226, 1174)

Against all Defendants

48. Plaintiff hereby incorporates by reference the previous paragraphs of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

49. Under Labor Code § 226(a), Defendants have at all relevant times been required to provide Plaintiff with regular itemized written statements showing, among other things, total hours worked, all applicable hourly rates during the pay period, and the corresponding number of hours worked at each rate by the Plaintiff. Defendants knowingly and intentionally failed to provide such timely, accurate, itemized wage statements to Plaintiff in accordance with California

1 Labor Code § 226. Such failure caused injury to Plaintiff.

2 50. Defendants also knowingly and intentionally failed to maintain records of hours
3 worked by Plaintiff in accordance with California Labor Code § 1174(d). Such failure caused
4 injury to Plaintiff.

5 **SEVENTH CAUSE OF ACTION**

6 **(Violation of Business & Professions Code §17200, *Et Seq.*)**

7 **Against all Defendants**

8 51. Plaintiff alleges and incorporates herein by this reference each and every allegation
9 set forth in all previous paragraphs of the Complaint.

10 52. California Business and Professions Code §17200 provides: “As used in this
11 chapter, unfair competition shall mean and include any unlawful or fraudulent business act or
12 practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter
13 1 (commencing with § 17500) of Part 3 of Division 7 of the Business and Professions Code.”

14 53. Wage and hour laws express fundamental public policies. Providing employees
15 with wages for all hours worked, rest breaks, and providing accurate itemized records are
16 fundamental public policies of this State. Labor Code § 90.5(a) articulates the public policies of
17 this State to enforce vigorously minimum labor standards, to ensure that employees are not
18 required or permitted to work under substandard and unlawful conditions, and to protect
19 employers who comply with the law from those who attempt to gain a competitive advantage by
20 failing to comply with minimum labor standards.

21 54. Through the conduct alleged herein, Defendants have acted contrary to these
22 public policies, have violated specific provisions of the Labor Code, and have engaged in other
23 unlawful and unfair business practices in violation of California Business and Professions Code
24 §17200, et seq., depriving Plaintiff of rights, benefits, and privileges guaranteed to all employees
25 in California.

26 55. During the course of Plaintiff’s employment, Defendants engaged in multiple
27 violations of the California Labor Code by failing to pay wages due to Plaintiff, failing to provide
28 Plaintiff meal and rest periods and by failing to provide accurate and itemized statements of

1 Plaintiff's wage and hours.

2 56. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in
3 violation of §17200 et seq., of the California Business and Professions Code.

4 57. The acts of Defendants, as previously described above, were unfair, unlawful, and
5 fraudulent as defined in California Business and Professions Code §17200. Such acts constitute
6 an unfair business practice and unfair competition, thus violating California Business and
7 Professions Code §17200 et seq. As a result, Defendants obtained valuable property, money and
8 services from Plaintiff, including earned wages for all hours worked and have deprived him of
9 valuable rights and benefits guaranteed by law, all to the detriment of Plaintiff and to the benefit
10 of Defendants so as to allow Defendants to unfairly compete against competitors who comply
11 with the law.

12 58. As a result of the foregoing conduct, Plaintiff is entitled to recover restitution
13 damages in the form of payment of unlawfully withheld wages. Plaintiff is also entitled to recover
14 reasonable attorneys' fees pursuant to Code of Civil Procedure §1021.5, the substantial benefit
15 doctrine.

16 **EIGHTH CAUSE OF ACTION**

17 **Wrongful Termination in Public Policy**

18 **(Against all Defendants)**

19 59. Plaintiff re-alleges and incorporates herein by this reference each and every
20 allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

21 60. Defendants terminated Plaintiff's employment in retaliation in violation of Labor
22 Code §§ 98.6 and 1102.5, and in furtherance of its willful violation of California Labor Code §§
23 200, 226.8, and Business and Professions Code §17200 et seq., amongst other California laws, as
24 more fully set forth in the General Allegations above.

25 61. The aforementioned acts of Defendants constitute wrongful termination in
26 violation of public policy.

27 62. As a result of Defendants' wrongful conduct, Plaintiff has suffered and continues
28 to suffer from (a) substantial humiliation, serious mental anguish, emotional and physical distress,

1 (b) loss of past and future earnings, employment benefits and opportunities, which Plaintiff is
2 entitled to as compensatory damages. The exact amount and nature of such damages exceed the
3 jurisdictional limits of this court, but are presently unknown to Plaintiff, who will either seek
4 leave to amend this Complaint upon ascertaining such information or will prove the same at the
5 time of trial.

6 63. As more fully set forth above, the acts of Defendants were intentional, malicious,
7 wanton, oppressive and fraudulent, with conscious disregard for Plaintiff's rights and with the
8 intent to vex, injure, punish, and annoy Plaintiff so as to cause the injuries sustained by Plaintiff,
9 within the meaning of California Civil Code §3294. Plaintiff is therefore entitled to punitive or
10 exemplary damages in an amount sufficient to punish and make an example out of Defendants.

11 **NINTH CAUSE OF ACTION**

12 **Possession of Stolen Property Cal. Pen. Code § 496**

13 **(Against all Defendants)**

14 64. Plaintiff refers and incorporates herein by reference the previous paragraphs as
15 though fully set forth herein.

16 65. Where one, through mistake or fraud receives money to which he is not entitled,
17 he becomes the trustee of that money for the benefit of the one justly entitled to it under
18 California Civ. Code § 2224. In the course of, and by virtue of, the above-averred acts,
19 Defendants fraudulently converted and used improperly deducted wages or wages owed (or both)
20 for their own use and exclusive benefit and with the intent to deprive Plaintiff use of the monies
21 as wages due for all hours worked.

22 66. One who fraudulently appropriates property which has been entrusted to him is
23 guilty of theft under California Penal Code § 484.

24 67. Defendants' actions as described above constitute violations of Penal Code § 496
25 by depriving stolen wages. As a result of their actions in violation of Penal Code § 496,
26 Defendant is entitled to a just award of treble damages, costs of suit, and reasonable attorneys'
27 fees. Cal. Pen. Code § 496(c). Defendants planned to, and did, engage in the foregoing wrongful
28 conduct and they agreed with and intended that they engage in the above wrongful conduct in

1 depriving owed wages.

2 68. As a direct and proximate result of Defendants' actions in wholesale, Plaintiff has
3 suffered, and continues to suffer, actual damages in amount to be proven at trial, with interest,
4 attorneys' fees, and costs.

5 **TENTH CAUSE OF ACTION**

6 **(Retaliation for Engaging in Protected Activity in Violation of Cal. Lab. C. § 98.6)**

7 **Against All Defendants**

8 69. California Labor Code § 98.6 prohibits an employer from retaliating against an
9 employee for filing, a bona fide complaint, or a claim, or instituted any proceeding relating to his
10 or her rights under the jurisdiction of the labor commission.

11 70. Plaintiff's aforementioned protected activity, as described hereinabove, was a
12 motivating factor in Defendants' decisions that were adverse to Claimant, in regard to
13 compensation and terms, conditions and privileges of employment.

14 71. All Defendants retaliated against Plaintiff as manifested by several acts depicted
15 under the General Allegations above. Specifically, Defendants subjected Claimant to a hostile
16 work environment for her whistle-blowing actions, and for reasonably engaging in a lawful and
17 protected activity in complaining about working conditions, as more fully set forth in the General
18 Allegations and all paragraphs stated above, amongst other things. Ultimately, Defendants
19 constructively terminated Plaintiff's employment without valid justification. The temporal timing
20 of the adverse employment action.

21 72. Clearly, the aforementioned acts are discriminative against Plaintiff, and a
22 violation against California Labor Code § 98.6. As a result of the foregoing wrongful conduct,
23 Plaintiff is entitled to recover restitution damages in the form of payment of unlawfully withheld
24 wages, overtime, and commissions. Plaintiff is also entitled to recover reasonable attorneys' fees
25 pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine.

26 73. As a result, Plaintiff is entitled to recover all unpaid compensation, prejudgment
27 interest, and reasonable attorneys' fees and costs of suit. The exact amounts of such damages are
28 presently unknown to Plaintiff, who will either seek leave to amend upon ascertaining such

1 information or will prove the same at the time of trial.

2 74. The unlawful practices toward Plaintiff, as alleged in the General Allegations set
3 forth above, were approved and ratified by Defendants by its failure to honor Plaintiff's rights
4 under the aforementioned law to which Plaintiff was entitled.

5 **ELEVENTH CAUSE OF ACTION**

6 **(Private Attorney General Act)**

7 **Against All Defendants**

8 75. Plaintiff hereby incorporates by reference the previous paragraphs of this
9 Complaint as if fully set forth herein and for a cause of action alleges as follows:

10 76. Under the Private Attorneys General Act of 2004, Labor Code §§ 2698-2699.5, an
11 aggrieved employee, on behalf of himself or herself and other current or former employees, may
12 recover penalties under any provision of the Labor Code that provides for civil penalties. These
13 penalties are in addition to any other relief available under the Labor Code.

14 77. As set forth above, Defendant has committed numerous violations for which the
15 Labor Code provides for penalties, including violations of California Labor Code §§ 200, 204,
16 226, 226.7, 510, 512, and 1174.

17 78. The Plaintiff has provided written notice by certified mail to the Labor &
18 Workforce Development Agency ("LWDA") and to Defendant of the legal claims and theories of
19 this case. Sixty-five days have passed since the postmark date of the written notice to the LWDA,
20 and Plaintiff has not received notification from the LWDA that it intends to investigate the
21 alleged violations. Accordingly, Plaintiff has exhausted administrative remedies as required by
22 Labor Code § 2699.3.

23 79. As a direct result of Defendant's conduct as described, Plaintiff is entitled to
24 recover, on her own behalf and on behalf of others similarly situated, the maximum civil penalties
25 permitted by the Private Attorneys General Act from Defendants for all violations of Labor Code
26 §§ 200, 204, 226, 226.7, 510, 512, and 1174, as well as reasonable attorney's fees and costs.

27 **TWELFTH CAUSE OF ACTION**

28 **Failure To Permit Inspection of Employee Records Labor Code § 226**

(Against All Defendants)

80. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

81. Labor Code § 226(b) and (c) requires an employer to allow inspection and copying of pay statement records within 21 days of a written or oral request. Section 226(f) and (h) further provides for a \$750 penalty payable to the employee for each violation and allows an employee to sue for injunctive relief and for an award of attorneys' fees and costs.

82. Defendants have failed and refused to comply with Labor Code § 226 by refusing to permit Plaintiff to inspect or copy records pertaining to employment with Defendants.

83. As a result of Defendants' unlawful acts, as described herein, Plaintiff is entitled to recover a civil penalty of \$ 750 dollars, pursuant to Labor Code § 226(f).

84. Furthermore, as permitted under Labor Code § 226(h), Plaintiff seeks a preliminary and permanent injunction compelling Defendants to permit inspection, copying or production all the records maintained by Defendant pursuant to Labor Code § 226(a), along with an award of Plaintiff's reasonable attorneys' fees and costs.

THIRTEENTH CAUSE OF ACTION

**Failure To Provide Copies Of Employment Instruments Labor Code § 432 via Bus. & Prof.
Code §§ 17200, Et Seq.**

(Against All Defendants)

85. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

86. Labor Code § 432 requires an employer to provide an employee, upon request, a copy of any instrument signed by that employee in relation to obtain or holding employment.

87. Defendants have failed and refused to comply with Labor Code § 432. Such conduct is unlawful and unfair within the meaning of Bus. & Prof. Code §§ 17200, *et seq.* On information and belief, such conduct, coupled with the above violations is reflective of an ongoing pattern and practice such that injunctive relief is warranted to compel Defendants to produce the subject documents.

88. Should the Court grant such an injunction, Plaintiff seeks an award of attorney fees for conferring a public benefit by prompting Defendants to change their practices or policies to comply with Labor Code § 432. Plaintiff also seeks attorneys' fees and costs without reference to Bus. & Prof. Code §§ 17200, et seq., to the extent permitted by law.

FOURTEENTH CAUSE OF ACTION

Failure To Permit Inspection of Employee Records Labor Code § 1198.5

(Against all Defendants).

89. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

90. Cal. Labor Code § 1198.5 requires an employer to allow inspection and copying of personnel records within 30 days of a written request. The Section provides for a \$750 penalty payable to the employee for failure to comply and allows an employee to sue for injunctive relief and to obtain an award of costs and attorneys' fees.

91. Defendants failed and refused to comply with Labor Code § 1198.5 by refusing to permit Plaintiff to inspect or copy personnel records within 30 days of Plaintiff's written request.

92. As a result of Defendants unlawful acts, as described herein, Plaintiff is entitled to recover a civil penalty of \$750 dollars, pursuant to Labor Code § 1198.5(k).

93. Furthermore, as permitted under Labor Code § 1198.5(1), Plaintiff seeks an injunction compelling Defendants and DOES 1-100, inclusive to permit her to inspect and/or copy all her personnel records maintained by Defendants and DOES 1-100, inclusive, along with an award of Plaintiff's reasonable attorneys' fees and costs.

FIFTEENTH CAUSE OF ACTION

Unfair/Unlawful Business Practices

Bus. & Prof. Code §§ 17200, et seq.

(Against all Defendants, on Behalf of Plaintiff Individually and as a Member of the General Public)

94. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

95. California Business and Professions Code § 17200 prohibits unfair competition in the form of any unlawful, unfair, or fraudulent business act or practice.

96. California Business and Professions Code § 17204 allows "any person who has suffered injury in fact and has lost money or property" to prosecute a civil action for violation of the Unfair Competition Law.

97. Defendants have committed unlawful, unfair, and/or fraudulent business acts and practices as defined by Business and Professions Code § 17200, et seq. by failing to provide Plaintiff a copy of personnel file, payroll records, and any documents signed in connection with his employment in violation of Labor Code §§ 226, 432, and 1198.5. The above-described unlawful actions of such Defendants and

98. Defendants constitute false, unfair, fraudulent and/or deceptive business practices, within the meaning of Business and Professions Code §§ 17200, et seq.

99. Plaintiff is entitled to equitable relief against such unlawful practices in order to prevent future damage, for which there is no adequate remedy at law, and to avoid a multiplicity of lawsuits. Plaintiff brings this cause individually and as a member of the public as a representative of all others subject to Defendants' unlawful acts and practices.

100. As a result of their unlawful acts, Defendants have reaped and continue to reap unfair benefits at the expense of Plaintiff and the public at large.

101. Defendants should be enjoined from this activity and made to disgorge these ill-gotten gains, pursuant to California Business and Professions Code §§ 17200, et seq.

102. Defendants are unjustly enriched because of their failure to provide Plaintiff with a copy of the personnel file, payroll records, and any documents signed in connection with being employed upon written request.

103. Plaintiff is severely prejudiced by Defendants' unfair trade practices.

104. As a direct and proximate result of the unfair business practices of Defendants, Plaintiff is entitled to equitable relief, enjoining Defendants, inclusive to cease and desist from engaging in the practices described herein.

PRAYER FOR RELIEF

1 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

2 1. For an award to Plaintiff of damages for failing to pay the minimum wage
3 amounts, including interest thereon, subject to proof at trial;

4 2. For an award to Plaintiff of damages for the amount of unpaid overtime
5 compensation, including interest thereon, subject to proof at trial;

6 3. For an award to Plaintiff of damages for the amount of unpaid meal and
7 rest period compensation, including interest thereon, subject to proof at trial;

8 4. For an award to Plaintiff of damages or penalties for Defendants' failure to
9 provide timely, accurate, itemized wage statements and failure to maintain records of hours
10 worked by Plaintiff in accordance with Labor Code § 226;

11 5. For an award to Plaintiff of reasonable attorneys' fees and costs pursuant to
12 applicable provisions of law, including Labor Code §§ 218.5, 226 and 1194;

13 6. For liquidated damages and penalties available under applicable law,
14 including penalties pursuant to Labor Code § 203;

15 7. For interest pursuant to applicable provisions of law, including but not
16 limited to Labor Code §§ 218.6 and 1194 and Civil Code §§ 3287, 3288, and 3289;

17 8. For injunctive relief requiring Defendant to comply with Labor Code
18 §§ 226(a) and 1174(d); and

19 9. That Plaintiff and other current or former employees be awarded penalties
20 under Labor Code § 2699 for all of Defendant's violations of Labor Code §§ 200, 204, 226,
21 226.7, 510, 512, 1174 and 1194;

22 10. An award of such other and further equitable and legal relief as this Court
23 may deem appropriate;

24 11. For an award to Plaintiff of costs of suit incurred herein and reasonable
25 attorneys' fees pursuant to Labor Code § 2699(g)(1); and

26 12. Treble Damages and attorneys' fees Under California Penal Code § 496(c)

27 13. That Plaintiff and other current or former employees be awarded penalties
28 under Labor Code § 2699 for all of Defendant's violations of Labor Code §§ 200, 204, 226,
226.7, 510, 512, 1174 and 1194;

 14. An award of such other and further equitable and legal relief as this Court
may deem appropriate;

1 15. For an award to Plaintiff of costs of suit incurred herein and reasonable
2 attorneys' fees pursuant to Labor Code § 2699(g)(1); and

3 16. For an award of statutory damages as plead pursuant to Labor Code §§ 226
4 and 1198.5 at \$750 per statute totaling \$1500 in Labor Code statutory fines.

5 17. For preliminary and permanent and injunction compelling production of
6 Plaintiff's employment records pursuant to Labor Code §§ 226 and 1198.5.

7 18. For an order that Defendants, inclusive make restitution to Plaintiff due to
8 their unlawful business practices as described herein, pursuant to Business and Professions Code
9 §§ 17200, *et seq.* amongst any contemplated statutory penalty amounts.

10 19. For an award of Plaintiff's attorneys' fees and costs under any applicable
11 statutory or contractual basis, including Code of Civil Procedure § 1021.5 and Labor Code §§ 226
12 and 1198.5, not to exceed \$50,000 without amendment to this Complaint, understanding such fee
13 to be an element of costs.; and

14 20. For such other and further relief as the Court;

15 21. For an award of such other and further equitable and legal relief as this
16 Court may deem appropriate.

17 Respectfully Submitted

18 Dated: March 30, 2022

H A R M O U S H & R A S H E D I L A W G R O U P

/s/ Sammy M. Harmoush

Samy M. Harmoush

Kimberly Cole

A T T O R N E Y S F O R P L A I N T I F F

Alfredo Hurtado