

FILED
Superior Court Of California,
Sacramento
02/10/2022
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By _____, Deputy
Case Number:
34-2021-00312356

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individually and on behalf of all other similarly situated employees,

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

ARNOLD SERRANO, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

COOL TIME, LLC, a California Corporation;
and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2021-00312356

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Failure to Reimburse Expenses
8. Unfair Competition
9. Private Attorneys General Act

DEMAND FOR JURY TRIAL

Plaintiff ARNOLD SERRANO ("Plaintiff"), on behalf of himself and all other similarly
situated employees, hereby files this First Amended Complaint against Defendants COOL TIME,
LLC, a California Corporation; and DOES 1 to 100, inclusive (hereinafter all collectively referred to
as "Defendants"). On information and belief, Plaintiff alleges the following:

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JURISDICTION AND VENUE

2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to California Code of Civil Procedure section 410.10 to determine alleged violations of the California Labor Code, California Business and Professions Code, and Wage Order No. 5.

2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to California Code of Civil Procedure section 410.10 to determine alleged violations of the California Labor Code, California Business and Professions Code, and Wage Order No. 5.

4. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3, Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency (“LWDA”) on approximately November 11, 2021. Plaintiff provided facts and legal bases for his claims within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause of action. Plaintiff also submitted the \$75.00 filing fee. The November 11, 2021, notice was also sent via certified mail to Defendants on the same day. To date, the LWDA has not provided any response to Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies pursuant to the PAGA and may bring this action on behalf of himself and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005). Aggrieved Employees include, but is not limited to the following: all non-exempt employees working for Defendants in California over the applicable statutory period.

1 **PARTIES**

2 5. ARNOLD SERRANO is an individual over the age of eighteen (18) and is a resident
3 of the State of California.

4 6. On information and belief, Plaintiff alleges COOL TIME, LLC, is now and/or at all
5 times mentioned in this Complaint was a California Corporation and the owner and operator of an
6 industry, business and/or facility doing business in the State of California.

7 7. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
8 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
9 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
10 names and capacities of these DOE Defendants when they are ascertained. At all times mentioned
11 herein, each Defendant was the agent or employee of each of the other Defendants and was acting within
12 the course and scope of such agency or employment. The Defendants are jointly and severally liable to
13 Plaintiff.

14 8. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
15 were members of and/or engaged in a joint employment, joint venture, partnership and common
16 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
17 joint venture, partnership and common enterprise.

18 9. Defendants, and each of them, now and/or at all times mentioned in this Complaint
19 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

20 10. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
21 wrongs, complaints, injuries and/or damages alleged in this Complaint.

22 **CLASS ALLEGATIONS**

23 11. Plaintiff brings the First through Eighth Causes of Action on behalf of himself and all
24 others similarly situated as a class action pursuant to California Code of Civil Procedure section 382.
25 The class which Plaintiff seeks to represent is composed of, and defined, as follows:

26 All non-exempt employees who have or continue to work for Defendants
27 in California from December 8, 2017 to the present.
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1 12. This action has been brought and may be properly maintained as a class action,
2 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
3 defined community of interests in the litigation and the proposed class is easily ascertainable.

4 (a) Numerosity: The putative class is so numerous that the individual joinder of all members
5 is impracticable under the circumstances of this case. While the exact number of class
6 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
7 Defendants have employed as many as fifty (50) individuals falling within the above
8 stated class definition throughout the State of California during the applicable statute of
9 limitations, who were subjected to the policies and practices outlined in this Complaint.
10 As such, joinder of all members of the putative class is not practicable.

11 (b) Common Questions Predominate: Common questions of law and fact exist as to all
12 members of the putative class and predominate over questions that affect only individual
13 members of the class. These common questions of law and fact include, without
14 limitation, the following:

- 15 (1) Whether Defendants paid Plaintiff and putative class members for all hours
16 worked;
- 17 (2) Whether Defendants paid Plaintiff and putative class members all overtime wages
18 they were owed;
- 19 (3) Whether Defendants failed to authorize and permit Plaintiff and putative class
20 members to take meal periods;
- 21 (4) Whether Defendants failed to authorize and permit Plaintiff and putative class
22 members to take rest periods;
- 23 (5) Whether Defendants failed to authorize and permit second meal periods and third
24 rest periods when Plaintiff and putative class members worked over 10 hours in a
25 day;
- 26 (6) Whether Defendants failed to pay Plaintiff and putative class members all
27 reimbursements owed;
- 28

1 (7) Whether as a result of Defendants' policies and practices Plaintiff's and putative
2 class members received all wages, due and owing, at the time of their termination
3 or separation; and

4 (8) Whether Defendants provided Plaintiff's and putative class members with wage
5 statements that complied with Labor Code section 226.

6 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
7 class. The putative class also sustained damages arising out of Defendants' common
8 course of conduct in violation of the law as complained of herein. Plaintiff and all
9 members of the putative class were not paid minimum wages for all hours worked, not
10 paid overtime for hours worked over eight (8) hours in a day and forty (40) hours in a
11 week, were not permitted uninterrupted meal and rest periods, and were denied
12 reimbursement for business related expenses. These policies and practices resulted in
13 unpaid minimum wages, unpaid overtime wages, unpaid sick time, meal and rest period
14 violations, wage statement violations, waiting time penalties, and unfair competition.
15 Additionally, Defendants issued Plaintiff and all members of the putative class wage
16 statements that did not comply with Labor Code section 226. As a result, Plaintiff and
17 each member of the putative class will have suffered the same type of harm and seek the
18 same type of recovery based on the same legal theories.

19 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
20 putative class. For all relevant times, Plaintiff resided in California and worked for
21 Defendants in California. Moreover, Plaintiff is an adequate representative of the
22 putative class as Plaintiff has no interests that are adverse to those of putative class
23 members. Additionally, Plaintiff has retained counsel who has substantial experience in
24 complex civil litigation and wage and hour matters.

25 (e) Superiority: A class action is superior to other available means for the fair and efficient
26 adjudication of the controversy since individual joinder of all members of the putative
27 class is impracticable. Class action treatment will permit a larger number of similarly
28 situated persons to prosecute their common claims in a single forum simultaneously,

1 efficiently, and without the unnecessary duplication of effort and expense that numerous
2 individual actions would engender. Further, as damages suffered by each individual
3 member of the class may be relatively small, the expenses and burden of the individual
4 litigation would make it difficult or impossible for individual members of the class to
5 redress the wrongs done to them, and an important public interest will be served by
6 addressing the matter as a class action. The cost to the court system of adjudication of
7 such individualized litigation would be substantial. Individualized litigation would also
8 present the potential for inconsistent or contradictory judgments.

9 13. Plaintiff is unaware of any difficulties that are likely to be encountered in the
10 management of this action that would preclude its maintenance as a class action.

11 GENERAL ALLEGATIONS

12 14. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 13 as though fully
13 set forth herein.

14 15. Plaintiff worked for Defendants as a maintenance manager for Defendants' apartment
15 complexes from approximately August 1, 2020 to August 13, 2021, making approximately \$20.00 per
16 hour. Plaintiff would frequently run errands for Defendants, including but not limited to driving his
17 personal vehicle to Home Depot to buy supplies, transferring other employees from various Cool Time,
18 LLC sites and driving himself from assigned sites. As maintenance managers, Plaintiff and similarly
19 situated employees were there to provide planned and emergency repairs to the apartment complexes to
20 keep the apartment complex and individual apartments in working condition.

21 16. Over the course of Plaintiff's employment with Defendants, his hours varied, however,
22 he often worked over eight (8) hours a day and forty (40) per week. In fact, it was Defendants' policy to
23 not provide Plaintiff and similarly situated employees overtime regardless of the number of hours they
24 worked. Defendants specifically instructed Plaintiff to only record forty (40) hours per week despite
25 working substantially more hours per week. Additionally, Defendants required Plaintiff to be on call
26 50% to 100% of all weekends without pay. Plaintiff estimates that he would work approximately four
27 (4) to six (6) hours per weekend day taking care of emergency "on-call" assignments. Defendants did
28 not offer Plaintiff any pay for being on-call nor for hours worked on weekends. Furthermore, Plaintiff

1 was told by Defendants that any overtime he is owed is offset by the fact that the company only charges
2 half of the rent typically required for him living on the premises.

3 17. In addition to failing to pay Plaintiff and similarly situated employees all overtime wages
4 due, Defendants also failed to pay Plaintiff and similarly situated employees' minimum wages for all
5 hours worked. Specifically, Plaintiff was only allowed to record up to forty (40) hours per week at an
6 hourly rate of \$20.00 per hour, totaling a net of \$800.00 per week. However, Plaintiff was actually
7 working approximately sixty (60) hours per week, which if paid at minimum wage would exceed
8 \$800.00 per week. Defendants knew that Plaintiff was on call on all evenings and for twenty-four (24)
9 hours per weekend day. Furthermore, Plaintiff and similarly situated employees often took work-related
10 phone calls and ran errands for Defendants before, during, and after their shifts. Defendants were aware
11 that Plaintiff and similarly situated employees were working off-the-clock but failed to compensate them
12 for this time.

13 18. Defendants further did not authorize and permit Plaintiff and similarly situated
14 employees to take uninterrupted meal and rest periods. Defendants specifically told Plaintiff that it was
15 required that Plaintiff answer telephone calls and texts at all times, including meal and rest breaks.
16 Plaintiff had to do this using his personal cell phone. Plaintiff was then required to attend to
17 assignments provided during these calls, thus, shortening or completely obliterating Plaintiff's meal and
18 rest breaks. This included a first meal period before the completion of the fifth hour of work and a
19 second meal period and third rest period on occasions when they worked more than ten (10) hours in a
20 day. Plaintiff estimates that he only took approximately 50% of his full thirty-minute meal breaks and
21 approximately 50% of his ten-minute rest breaks. Additionally, Defendants failed to pay Plaintiff and
22 similarly situated employees' meal and rest period premiums owed.

23 19. Defendants required Plaintiff to drive his personal vehicle for errands. Plaintiff regularly
24 drove four (4) to fourteen (14) miles to and from errands which Plaintiff required Defendants to
25 perform. Plaintiff also purchased gasoline to run mowing machines from his own pocket and was
26 denied reimbursement for such expenses. Even when Plaintiff asked for reimbursement for mileage
27 Defendants failed to sufficiently reimburse Plaintiff and similarly situated employees for their use of
28 personal cell phones for work purposes. Defendants required Plaintiff and similarly situated employees

1 to use a company application on their phone to communicate with Defendants and the tenants they
2 served on a routine basis. Despite this, Plaintiff and similarly situated employees were not paid for their
3 cellphone use. This did not compensate employees for their cell phone bills considering the time spend
4 on their phone for work purposes.

5 20. As a result of Defendants' failure to pay Plaintiff and similarly situated employees all
6 overtime wages, minimum wages, and meal and rest period premiums owed, the wage statements
7 Defendants issued were defective. Specifically, Defendants did not accurately list total hours worked,
8 wages due, and total missed meal and rest period premiums earned, and the corresponding rates of pay.

9 21. As a further result of Defendants' failure to pay Plaintiff and similarly situated employees
10 for all regular and overtime hours worked and failure to pay meal and rest period premiums, Defendants
11 failed to provide all final wages owed to Plaintiff and similarly situated employees within twenty-four
12 (24) hours of their termination or seventy-two (72) hours of their resignation.

13 **CAUSES OF ACTION**

14 **FIRST CAUSE OF ACTION**
15 **FAILURE TO PAY OVERTIME WAGES**
16 **(As to all Defendants)**

17 22. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 21 as though fully
18 set forth herein.

19 23. During the period Plaintiff was employed by Defendants, Defendants were required to
20 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
21 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
22 hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 5, section (3)(A);*
23 *Cal. Lab. Code §§ 510, 1194.*

24 24. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
25 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
26 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
27 worked at their regular rate of pay.

28 25. Plaintiff and similarly situated employees were not exempt from overtime protections
employees under the California Wage Orders and Labor Code.

1 26. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
2 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
3 the extent pertinent as if set forth here in full.

4 **SECOND CAUSE OF ACTION**
5 **FAILURE TO PAY MINIMUM WAGES**
6 **(As to all Defendants)**

7 27. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 26 as though fully
8 set forth herein.

9 28. For the period preceding the filing of this Complaint, Defendants were required to
10 compensate Plaintiff and similarly situated employees with at least California's applicable minimum for
11 every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 5, section 4(A); Cal. Lab. Code §
12 1194.

13 29. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their
14 obligation to pay the minimum wage for each hour worked but failed to do so.

15 30. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
16 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
17 the extent pertinent as if set forth here in full.

18 **THIRD CAUSE OF ACTION**
19 **MEAL PERIOD VIOLATIONS**
20 **(As to all Defendants)**

21 31. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 30 as though fully
22 set forth herein.

23 32. An employer must provide an employee a meal period in accordance with the
24 applicable Wage Order, and California Labor Code sections 226.7 and 512.

25 33. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 5, section
26 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30)
27 minutes for each work period of more than five (5) hours.

28 34. California Labor Code section 512 and Wage Order No. 5 section 11(B) further
provide that employers may not employ employees for a work period for more than ten (10) hours
per day without providing the employee with a second meal period of at least thirty (30) minutes.

1 However, if the total hours worked is no more than twelve (12) hours, the second meal period may
2 be waived so long as there was no waiver as to the first meal period. Employees are entitled to one
3 (1) hour of pay at their regular rate of compensation for each meal period not provided.

4 35. Defendants employed Plaintiff and similarly situated employees for periods of more
5 than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal
6 period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more
7 than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated
8 employees to take their first meal period before the completion of their fifth hour of work and failed
9 to allow Plaintiff and similarly situated employees to take their second meal period before the
10 completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their
11 rights to all meal periods throughout their employment.

12 36. Defendants further failed to pay Plaintiff and similarly situated employees the
13 applicable meal period premiums for any such missed meal breaks.

14 37. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
15 employees have been damaged as stated in the section below entitled "DAMAGES," which is
16 incorporated here to the extent pertinent as if set forth here in full.

17 **FOURTH CAUSE OF ACTION**
18 **REST PERIOD VIOLATIONS**
(As to all Defendants)

19 38. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 37 as though fully
20 set forth herein.

21 39. An employer must provide an employee a rest period in accordance with the
22 applicable Wage Order and California Labor Code section 226.7.

23 40. California Labor Code section 226.7 and Wage Order No. 5, section 12(A) require an
24 employer to provide a rest period of not less than ten (10) minutes for each work period of more than
25 four (4) hours or a major fraction thereof.

26 41. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
27 situated employees to take paid rest periods of at least ten (10) minutes for each work period that
28 they worked more than four (4) hours or a major fraction thereof.

1 42. Defendants further failed to pay Plaintiff and similarly situated employees the
2 applicable rest period premiums for any such missed rest periods.

3 43. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
4 employees have been damaged as stated in the section below entitled "DAMAGES," which is
5 incorporated here to the extent pertinent as if set forth here in full.

6 **FIFTH CAUSE OF ACTION**
7 **WAGE STATEMENT VIOLATIONS**
8 **(As to all Defendants)**

9 44. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 43 as though fully
10 set forth herein.

11 45. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
12 statement to an employee, semimonthly or at the time of each payment of wages, showing:

13 *(1) gross wages earned, (2) total hours worked by the employee, except for*
14 *any employee whose compensation is solely based on a salary and who is*
15 *exempt from payment of overtime under subdivision (a) of Section 515 or*
16 *any applicable order of the Industrial Welfare Commission, (3) the*
17 *number of piece-rate units earned and any applicable piece rate if the*
18 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
19 *all deductions made on written orders of the employee may be aggregated*
20 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
21 *period for which the employee is paid, (7) the name of the employee and*
22 *the last four digits of his or her social security number or an employee*
23 *identification number other than a social security number, (8) the name*
24 *and address of the legal entity that is the employer and, if the employer is*
25 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
26 *name and address of the legal entity that secured the services of the*
27 *employer, and (9) all applicable hourly rates in effect during the pay*
28 *period and the corresponding number of hours worked at each hourly rate*
by the employee. The deductions made from payment of wages shall be
recorded in ink or other indelible form, properly dated, showing the
month, day, and year, and a copy of the statement and the record of the
deductions shall be kept on file by the employer for at least three years at
the place of employment or at a central location within the State of
California.

46. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
itemized statement or failed to provide an accurate and complete itemized statement showing the
requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime
and double time hours worked and corresponding rates of pay, and gross and net wages earned. The

1 paystubs also did not accurately itemize Plaintiff's and similarly situated employees' total hours
2 worked due to Defendants' "on-call" policy which resulted in off-the-clock work. Plaintiff and
3 similarly situated employees were not able to promptly and easily determine their total hours worked
4 from their paystubs alone. Additionally, Plaintiff and similarly situated employees suffered
5 confusion over whether they received all wages owed and were prevented from effectively
6 challenging information on their wage statements.

7 47. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
8 employees have been damaged as stated in the section below entitled "DAMAGES," which is
9 incorporated here to the extent pertinent as if set forth here in full.

10 **SIXTH CAUSE OF ACTION**
11 **WAITING TIME PENALTIES**
(As to all Defendants)

12 48. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 47 as though fully
13 set forth herein.

14 49. An employer must pay an employee who is terminated all unpaid wages immediately
15 upon termination. *See* Cal. Lab. Code § 201.

16 50. An employer must pay an employee who resigns all unpaid wages within seventy-two
17 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

18 51. Plaintiff and similarly situated employees did not receive all wages, including minimum
19 and overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or
20 within the required time after their separation from employment.

21 52. An employer who willfully fails to pay an employee wages in accordance with California
22 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
23 days. *See* Cal. Lab. Code § 203.

24 53. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
25 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
26 and similarly situated employees were not paid all wages due at the time of separation, as it was their
27 policies that resulted in this under payment. Such conduct shows Defendants had knowledge of earned,
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1 but unpaid wages at the time of separation, yet Defendants still refused to pay the remaining wages
2 owed.

3 54. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
4 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
5 thirty (30) days for Defendants' failure to pay all wages due.

6 **SEVENTH CAUSE OF ACTION**
7 **FAILURE TO REIMBURSE EXPENSES**
8 **(As to all Defendants)**

9 55. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 54 as though fully
10 set forth herein.

11 56. California Labor Code section 2802(a) states that "An employer shall indemnify his or
12 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
13 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
14 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
15 unlawful."

16 57. Defendants required Plaintiff and similarly situated employees to use their personal
17 vehicles, personal cell phones and gasoline for work purposes but failed to reimburse them for such use.

18 58. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
19 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
20 the extent pertinent as if set forth here in full.

21 **EIGHTH CAUSE OF ACTION**
22 **UNFAIR COMPETITION**
23 **(As to all Defendants)**

24 59. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 58 as though fully
25 set forth herein.

26 60. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act
27 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
28 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See
California Business and Professions ("B&P") Code § 17200.

1 61. Plaintiff and similarly situated employees were not paid all wages owed, including
2 minimum and overtime wages, and meal and rest period premiums, or reimbursed for business expenses,
3 during their employment or any time thereafter.

4 62. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
5 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to
6 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

7 63. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the
8 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
9 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code
10 sections 17203, 17208, violations of California Labor Code sections 226.7, 510, 512, and 1194 all in an
11 amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

12 **NINTH CAUSE OF ACTION**
13 **PRIVATE ATTORNEYS GENERAL ACT**
14 **(As to all Defendants)**

15 64. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 63 as though fully
16 set forth herein.

17 65. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
18 following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated
19 current and former employees:

- 20 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 5, § 3 (Failure to Pay Overtime
21 Wages)
- 22 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 5, § 4 (Failure to Pay
23 Minimum Wages)
- 24 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 5, §§ 11(A) and 11(B)
25 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 26 • Violation of Labor Code § 226.7 and Wage Order No. 5, § 12(A) (Failure to Provide Rest
27 Periods or Pay Premiums in Lieu Thereof)
- 28 • Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)

- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

66. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

67. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

68. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:

- 1 a. Wages in an amount to be proven at trial;
- 2 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 3 section 1021.5;
- 4 5. As to the Fourth Cause of Action:
- 5 a. Wages in an amount to be proven at trial;
- 6 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 7 section 1021.5;
- 8 6. As to the Fifth Cause of Action:
- 9 a. Penalties as provided for in Labor Code section 226, including the greater of all
- 10 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
- 11 violation occurred and one hundred dollars (\$100.00) per employee for each
- 12 violation in the subsequent pay periods, but not to exceed four thousand dollars
- 13 (\$4,000.00);
- 14 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
- 15 226(e);
- 16 7. As to the Seventh Cause of Action:
- 17 a. An amount to be proven at trial;
- 18 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
- 19 8. As to the Ninth Cause of Action:
- 20 a. For civil penalties as provided in the Labor Code for each enumerated
- 21 violation;
- 22 b. For those Labor Code sections where there is no civil penalty provided for their
- 23 violation, the default penalty provided in Labor Code section 2699(f): for any
- 24 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
- 25 period; For any subsequent violation, two hundred dollars (\$200) for each
- 26 aggrieved employee per pay period;
- 27 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- 28

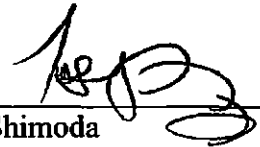
d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

9. For such other and further relief as this Court may deem just and proper, including, but not limited to:

- a. Wages as proved at trial;
- b. Injunctive and Declaratory relief;
- c. Attorney's fees and costs as provided for by law; and
- d. Interest.

Dated: February 9, 2022

Shimoda & Rodriguez Law, PC

By: 

Galen T. Shimoda
Justin P. Rodriguez
Attorneys for Plaintiff