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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ANDRES CASAS, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff.

vs.

MYERS POWER PRODUCTS, INC., an
unknown business entity; and DOES 1
through 100, inclusive,

Defendants.

Case No.: CIVDS1920109

Honorable David S. Cohn
Department S26

CLASS ACTION

**DECLARATION OF ALEXANDRA ROSE
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Plaintiff's Motion for Preliminary Approval of
Class Action Settlement; Declaration of
Proposed Class Representative (Andres Casas);
and [Proposed] Order filed concurrently
herewith]

Date: March 1, 2023
Time: 10:00 a.m.
Department: S26

Complaint Filed: July 10, 2019
FAC Filed: December 20, 2019
Trial Date: None Set

DECLARATION OF ALEXANDRA ROSE

I, Alexandra Rose, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Andres Casas (“Plaintiff”). The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EXPERIENCE AND ADEQUACY OF LAWYERS *for* JUSTICE, PC

2. Since October 2008, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, the firm is attorney of record in over a dozen employment-related putative class actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. The firm has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California. Below is a summary of the experience and qualifications of the attorneys at Lawyers *for* Justice, PC who most recently and primarily have been responsible for the representation of Plaintiff in connection with the resolution of above-captioned matter. Additional attorney and non-attorney staff have also worked on the above-captioned matter.

3. Edwin Aiwazian is the Managing Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA

1 Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University.
2 From approximately September 2002 to approximately December 2002, he served as a Judicial
3 Extern to the Honorable Kim McLane Wardlaw of the United States Court of Appeals for the
4 Ninth Circuit. From approximately June 2002 to approximately August 2002, he served as a
5 Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second
6 Appellate District. In December of 2004, he obtained a license to practice law from the California
7 State Bar. From approximately December 2004 to approximately August 2008, he was employed
8 by Girardi & Keese. At Girardi & Keese, his practice focused on class actions and other complex
9 cases involving toxic torts and products liability. In addition, he gained substantial experience on
10 cases involving insurance bad faith, premises liability, and medical negligence. While employed
11 by Girardi & Keese, he argued approximately one hundred (100) motions, took or defended
12 approximately one hundred fifty (150) depositions, and prepared dozens of expert witnesses for
13 deposition or trial. Since in or around October of 2008, through his work at Lawyers *for* Justice,
14 PC, he has almost exclusively focused on the prosecution of consumer and employment class
15 actions, involving wage-and-hour claims, race discrimination, unfair business practices, or
16 consumer fraud. While employed by Lawyers *for* Justice PC, he has argued over one hundred
17 (100) motions, taken or defended over one hundred fifty (150) depositions, prepared dozens of
18 expert witnesses for deposition or trial, and attended over one hundred seventy-five (175)
19 mediations. Together with other attorneys at the firm, and in many cases in conjunction with co-
20 counsel, he has successfully litigated cases involving the executive, administrative, and other
21 overtime exemptions to the State of California and federal overtime compensation requirements.
22 Under his supervision, Lawyers *for* Justice, PC has successfully obtained class certification by
23 contested motion practice in approximately fifteen (15) cases in the last decade, and litigated over
24 1,000 class action or representative action cases.

25 4. Arby Aiwarzian is a Member and Shareholder of Lawyers *for* Justice, PC. He
26 received his Bachelor of Arts degree from University of California, Los Angeles and graduated
27 magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School.
28 From approximately May 2007 to approximately July 2007, he served as a Judicial Extern to the

1 Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District.
2 From approximately August 2008 to approximately December 2008 he served as a Judicial Extern
3 to the Honorable Kim McLane Wardlaw of the United State Court of Appeals for the Ninth Circuit.
4 He was admitted to practice law in California in 2010. He is admitted to practice before all courts
5 of the State of California and all United States District Courts in the State of California. He has
6 worked on many wage-and-hour class action and representative action cases, taking the lead in
7 taking and defending depositions, arguing motions, and attending mediations. He has played an
8 integral role in preparing matters for class certification, including and not limited to, successful
9 certification of a class in *Upson v. Sur La Table* (Los Angeles County Superior Court Case No.
10 BC424012), *Montazemi v. Regus Management* (Los Angeles County Superior Court Case No.
11 BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County Superior Court Case No.
12 RG13680477). He has worked on over one hundred (100) class action or representative action
13 cases which have resulted in settlement, including and not limited to those listed in paragraph 7
14 herein.

15 5. Joanna Ghosh is a Senior Member of Lawyers for Justice, PC. She received a
16 Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of
17 Science degree from the London School of Economics in 2007, and a Juris Doctor degree from
18 Georgetown University Law Center in 2010. She is admitted to practice in California (since 2010)
19 and in New York (since 2013) and is also admitted to practice in all U.S. District Courts in
20 California, the U.S. Bankruptcy Court for the Central District of California, and the U.S. Supreme
21 Court. She has taken and defended dozens of depositions and successfully handled motion practice
22 in class action cases regarding discovery (including and not limited to, regarding class contact
23 information), class certification (both contested class certification and stipulated class
24 certification), arbitration agreements, coordination, intervention. She has successfully handled
25 briefing and oral argument on appeal and obtained notable decisions regarding the Private
26 Attorneys General Act (“PAGA”) and employer efforts to compel arbitration of PAGA claims,
27 e.g., *Roberto Betancourt v. Prudential Overall Supply* (Cal. Ct. App., Mar. 7, 2017) 9 Cal.App.5th
28 439, cert. denied (Cal., May 24, 2017), cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior*

1 Court (2019) 8 Cal.5th175. She also has extensive experience with class action and/or
2 representative action settlements. Under her, Edwin Aiwazian, and Arby Aiwazian’s supervision,
3 the firm has handled the class certification and court approval process for hundreds of class action
4 and/or representative action matters that have successfully resolved. She is a member of the
5 California Employment Lawyers Association.

6 6. I am a Member of Lawyers *for* Justice, PC. I received my Bachelor of Arts degree
7 from the University of California, Los Angeles in 2016 and earned my Juris Doctor degree from
8 New England Law | Boston in 2019. I was admitted to practice law in California in 2019. I am
9 admitted to practice before all courts of the State of California and all federal district courts in the
10 State of California. I have worked on many wage-and-hour class action and PAGA representative
11 matters, and my work on these cases has included preparing pleadings and motions, making court
12 appearances, and drafting, negotiating, and finalizing settlement agreements.

13 **EXAMPLES OF RESULTS IN WAGE-AND-HOUR CLASS ACTION AND**
14 **REPRESENTATIVE ACTION CASES**

15 7. What follows are just a few examples of the type of results Lawyers *for* Justice, PC
16 (“LFJ”) has achieved on behalf of its clients:

17 a) LFJ, in association with co-counsel therein, represented the plaintiffs in a
18 wage-and-hour class action against a major property management company involving allegations
19 of misclassification of various “manager” positions. On September 20, 2010, the court granted
20 final approval of the class action settlement. The Los Angeles County Superior Court Case
21 Number is BC400414.

22 b) LFJ, in association with co-counsel therein, represented the plaintiffs in a
23 wage-and-hour class action against a national retailer of household items involving allegations of
24 misclassification of the “Assistant Store Manager” position. On October 28, 2010, the court
25 granted final approval of the class action settlement. The Los Angeles County Superior Court
26 Case Number is BC413498.

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1 c) LFJ, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class action against a national property management company involving
3 allegations of misclassification of the “Property Manager” position. On May 23, 2012, the court
4 granted final approval of the class action settlement. The Los Angeles County Superior Court
5 Case Number is BC430918.

6 d) LFJ, in association with co-counsel therein, represented the plaintiffs in a
7 wage-and-hour class action against a national retailer involving allegations of misclassification of
8 the “Store Manager” position. On June 10, 2011, the court granted plaintiffs’ motion for class
9 certification. On August 26, 2013, the court granted final approval of the class action settlement.
10 The Los Angeles County Superior Court Case Number is BC424012.

11 e) LFJ, in association with co-counsel therein, represented the plaintiff in a
12 wage-and-hour class and PAGA representative action against a bank, involving allegations of
13 misclassification of the “Assistant Branch Manager” position. On August 27, 2013, the court
14 granted final approval of the class and PAGA representative action settlement. The Kern County
15 Superior Court Case Number is S-1500-CV-273194-LHB.

16 f) LFJ, in association with co-counsel therein, represented the plaintiff in a
17 wage-and-hour class and PAGA representative action against a national wholesale distributor of
18 plumbing and builder supplies, involving allegations of misclassification of multiple salaried
19 “manager” positions. On May 22, 2014, the court granted final approval of the class and PAGA
20 representative action settlement. The Sacramento County Superior Court Case Number is 34-
21 2012-00136285.

22 g) LFJ, in association with co-counsel therein, represented the plaintiff in a
23 wage-and-hour class action against a multinational corporation that provides global workplace
24 solutions, involving allegations of misclassification of the “Operations Manager” position. On
25 September 16, 2014, the court granted plaintiff’s motion for class certification. The Los Angeles
26 County Superior Court Case Number is BC478769.

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1 h) LFJ, in association with co-counsel therein, represented the plaintiff in a
2 wage-and-hour class and PAGA representative action against a national retailer of household
3 items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted
4 final approval of the class and PAGA representative action settlement. The San Francisco County
5 Superior Court Case Number is CGC-13-532344.

6 i) LFJ, in association with co-counsel therein, represented the plaintiff in a
7 wage-and-hour class and PAGA action involving allegations of misclassification of the salaried
8 residential “Property Manager” position. On September 17, 2015, the court granted plaintiff’s
9 motion for class certification. On October 20, 2017, the court granted final approval of the class
10 and PAGA representative action settlement. The Los Angeles County Superior Court Case
11 Number is BC474784.

12 j) LFJ, in association with co-counsel therein, represented the plaintiffs in a
13 wage-and-hour class and PAGA representative action against a national retailer of upscale
14 hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court
15 granted final approval of the class and PAGA representative action settlement. The Los Angeles
16 County Superior Court Case Numbers are BC516795 and JCCP4794, and the Judicial Council
17 Coordination Proceeding Number is 4794.

18 k) LFJ, in association with co-counsel therein, represented the plaintiffs in a
19 wage-and-hour class action against a national retailer of apparel and fashion accessories, on behalf
20 of non-exempt employees. On August 5, 2016, the court granted final approval of the class action
21 settlement. The Los Angeles County Superior Court Case Number is BC488069.

22 l) LFJ, in association with co-counsel therein, represented the plaintiffs in a
23 wage-and-hour class action against a national retailer of apparel, accessories, and home products,
24 involving allegations of misclassification of the “Department Manager” position. On August 12,
25 2016, the court granted the plaintiffs’ motion for class certification in part and certified a class. On
26 August 6, 2019, the court granted final approval of the class action settlement. The Alameda
27 County Superior Court Case Number is RG13680477.
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1 m) LFJ represented the plaintiff in a PAGA representative action against a real
2 estate and property management company, on behalf of non-exempt employees. On November 4,
3 2016, the court granted approval of the PAGA representative action settlement. The Orange
4 County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

5 n) LFJ, in association with co-counsel therein, represented the plaintiffs in a
6 wage-and-hour class and PAGA representative action against a full-service bank, on behalf of non-
7 exempt employees. On November 18, 2016, the court granted final approval of the class and
8 PAGA representative action settlement. The San Francisco County Superior Court Case Number
9 is CJC-13-004839 and the Judicial Council Coordination Proceeding Number is 4839.

10 o) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
11 representative action against a foodservice distributor, on behalf of non-exempt employees. On
12 January 26, 2017, the court granted final approval of the class and PAGA representative action
13 settlement. The San Bernardino County Superior Court Case Number is CIVDS1507260.

14 p) LFJ, on behalf of the plaintiff and respondent in a PAGA representative
15 action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the
16 employer's motion to compel arbitration, which resulted in a published opinion by the California
17 Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall Supply* (Cal.
18 App. 4th Dist., Mar. 7, 2017) 9 Cal.App.5th 439, review denied, cert. denied (U.S. Supreme Court
19 Docket No. 17-254). The Riverside County Superior Court Case Numbers are RIC1503952 and
20 RICJCCP5046, and the Judicial Council Coordination Proceeding Number is 5046.

21 q) LFJ, in association with co-counsel therein, represented the plaintiffs in a
22 wage-and-hour class and PAGA representative action against a consumer packaging company, on
23 behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the class
24 and PAGA representative action settlement. The Los Angeles County Superior Court Case
25 Number is BC590429.

26 r) LFJ, in association with co-counsel therein, represented the plaintiffs in a
27 wage-and-hour class and PAGA representative action against a manufacturer of food service
28 industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final

1 approval of the class and PAGA representative action settlement. The Orange County Superior
2 Court Case Number is 30-2015-00810013-CU-OE-CXC.

3 s) LFJ in association with co-counsel, represented the plaintiffs in a wage-and-
4 hour class and PAGA representative action against a lumber and hardware company on behalf of
5 non-exempt employees. On April 26, 2017, the court granted final approval of the class and PAGA
6 representative action settlement. The Orange County Superior Court Case Number is 30-2014-
7 00747750-CU-OE-CXC.

8 t) LFJ represented the plaintiff in a wage-and-hour class and PAGA
9 representative action against a property management company, on behalf of non-exempt
10 employees. On June 14, 2017, the court granted final approval of the class and PAGA
11 representative action settlement. The Los Angeles County Superior Court Case Number is
12 BC586234.

13 u) LFJ represented the plaintiff in a wage-and-hour class and PAGA
14 representative action against a food company on behalf of non-exempt employees. On June 30,
15 2017, the court granted final approval of the class and PAGA representative action settlement. The
16 Sacramento County Superior Court Case Number is 34-2015-00175871.

17 v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
18 representative action against a chocolate company on behalf of non-exempt employees. On July
19 19, 2017, the court granted final approval of the class and PAGA representative action settlement.
20 The Alameda County Superior Court Case Number is RG15764300.

21 w) LFJ firm represented the plaintiff in a PAGA representative action, against
22 the parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On
23 October 18, 2017, the court granted approval of the PAGA representative action settlement. The
24 Los Angeles County Superior Court Case Number is BC569664.

25 x) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
26 representative action against a manufacturer of plastic containers on behalf of non-exempt
27 employees. On October 31, 2017, the court granted final approval of the class and PAGA
28

1 representative action settlement. The Los Angeles County Superior Court Case Number is
2 BC577233.

3 y) LFJ, in association with co-counsel therein, represented the plaintiffs in a
4 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
5 employees. On December 11, 2017, the court entered an order granting final approval of the class
6 and PAGA representative action settlement. The Los Angeles County Superior Court Case
7 Number is BC569646.

8 z) LFJ, in association with co-counsel therein, represented the plaintiffs in a
9 wage-and-hour class and PAGA representative action against a property management company
10 on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court entered an
11 order granting final approval of the class and PAGA representative action settlement. The Los
12 Angeles County Superior Court Case Number is JCCP4819 and the Judicial Council Coordination
13 Proceeding Number is 4819.

14 aa) LFJ, in association with co-counsel therein, represented the plaintiffs in a
15 wage-and-hour class and PAGA representative action against a global provider of flexible office
16 space solutions. On February 15, 2018, the court entered an order granting final approval of the
17 class and PAGA representative action settlement. The Los Angeles County Superior Court Case
18 Number is BC498401.

19 bb) LFJ, in association with co-counsel therein, represents the plaintiff in a
20 wage-and-hour class action against a container manufacturer, on behalf of non-exempt employees.
21 On October 15, 2018, the court granted the plaintiff's motion for class certification. The Tulare
22 County Superior Court Case Number is VCU264528.

23 cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
24 representative action against a behavioral health service provider on behalf of non-exempt
25 employees. On November 13, 2018, the court granted final approval of the class and PAGA
26 representative action settlement. The Alameda County Superior Court Case Number is
27 RG16811450.
28

1 dd) LFI, in association with co-counsel therein, represented the plaintiff in a
2 PAGA representative action against a global provider of products and services to the energy
3 industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the court
4 granted approval of the PAGA representative action settlement. The Kern County Superior Court
5 Case Number is S-1500-CV-280215-SDC.

6 ee) LFI, in association with co-counsel therein, represents the plaintiff in a
7 wage-and-hour class action against a parking company on behalf of non-exempt employees. On
8 September 3, 2019, the court granted the plaintiff's motion for class certification and certified a
9 class. The Santa Clara County Superior Court Case Number is 16CV292208 and the Judicial
10 Council Coordination Proceeding Number is 4886.

11 ff) LFI, in association with co-counsel therein, represents the plaintiffs in a
12 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
13 employees. On September 27, 2019, the court granted the plaintiffs' motion for class certification
14 in part and certified a class. The Alameda County Superior Court Case Number is RG15757606
15 and the Judicial Council Coordination Proceeding Number is 4921.

16 gg) LFI, in association with co-counsel therein, represented the plaintiffs in a
17 wage-and-hour class and PAGA representative action against a national retailer of apparel and
18 fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted
19 the plaintiffs' motion for class certification in part and certified a class. On May 14, 2021, the
20 court granted final approval of the class and PAGA representative action settlement. The
21 Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

22 hh) LFI, in association with co-counsel therein, on behalf of the plaintiff and
23 respondent in a PAGA representative action, successfully opposed in the trial court, and briefed
24 and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a
25 notable decision from the California Supreme Court clarifying the law regarding PAGA claims,
26 *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On February 21, 2020, the court granted approval
27 of the PAGA representative action settlement. The San Diego County Superior Court Case
28 Number is 34-2015-00175330.

1 ii) LFJ, in association with co-counsel therein, represents the plaintiff in a
2 wage-and-hour class and PAGA representative action against a medical equipment supplier on
3 behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion
4 for class certification and certified a class. The San Bernardino County Superior Court Case
5 Number is CIVDS1505744.

6 jj) LFJ, in association with co-counsel therein, represented the plaintiff in a
7 wage-and-hour class and PAGA representative action against a large national drug testing
8 laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the
9 plaintiff's motion for class certification and certified a class. On October 28, 2022, the court
10 granted final approval of the class and PAGA representative action settlement. The San Diego
11 County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

12 kk) LFJ, in association with co-counsel therein, represents the plaintiffs in a
13 wage-and-hour class and PAGA representative action against a national retailer of sportswear,
14 footwear, and camping equipment on behalf of non-exempt employees. On March 16, 2020, the
15 court granted in part the plaintiff's motion for class certification and certified a class. The
16 Riverside County Superior Court Case Numbers are RIC1507504 and RICJCCP4930, and the
17 Judicial Council Coordination Proceeding Number is 4930.

18 ll) LFJ, in association with co-counsel therein, represented the plaintiffs in a
19 wage-and-hour class action against manufacturer and supplier of power products and services on
20 behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion
21 for class certification and certified a class. On August 27, 2021, the court granted final approval
22 of the class action settlement. The San Diego County Superior Court Case Number is 37-2015-
23 00025968-CU-OE-CTL.

24 mm) LFJ represents the plaintiff in a wage-and-hour class action against a
25 nutritional products manufacturer on behalf of non-exempt production line employees. On
26 December 13, 2021, the court granted the plaintiff's motion for class certification in part and
27 certified a class. The Solano County Superior Court Case Number is FCS051001.
28

nn) LFJ represents the plaintiff in a wage-and-hour class action against an iconic lifestyle accessories brand and retailer on behalf of non-exempt employees. On March 15, 2022, the court granted the plaintiff's motion for class certification in part and certified a class. The San Francisco Superior Court Case Number is CGC-16-550794.

BASIC INFORMATION ABOUT THE CASE AND REACHING THE SETTLEMENT

8. Marked and attached hereto as "**EXHIBIT 1**" is the Stipulation for Leave to File Second Amended Complaint and Class Action and PAGA Settlement and Release of Claims ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiff, on the one hand, and Defendant Myers Power Products, Inc. ("Defendant"), on the other hand (collectively, the "Parties"). The Parties and their counsel have approved the proposed Notice of Class Action Settlement ("Notice"), which is attached to the Settlement Agreement as "Exhibit C" and respectfully request that the Court approve it as well. The Parties and their counsel have also drafted and agreed to the form and content of the proposed Second Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("Second Amended Complaint"), which is attached as "EXHIBIT 1" to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement, filed concurrently herewith. As part of the Settlement, Defendant agreed to an amendment of the complaint by Plaintiff to assert, *inter alia*, a cause of action for violation of PAGA (Labor Code section 2698, et seq.) on behalf of Plaintiff and aggrieved employees. Plaintiff's Counsel respectfully requests that the Court grant leave to file the Second Amended Complaint so that the terms of the Settlement Agreement and the intent of the Parties may be effectuated.

9. Based on information provided by Defendant, as of September 21, 2021, the Class was estimated to consist of approximately 507 individuals who worked approximately 62,946 Workweeks.

10. The effectiveness of Lawyers for Justice, PC ("Plaintiff's Counsel" or "Class Counsel") in prosecuting this matter has translated into tangible monetary benefits in the following respects: (1) Class Members, the State of California, and Aggrieved Employees recover over a reasonably short period of time as opposed to waiting additional years for the same, or possibly

1 worse, result; (2) a guaranteed result that compares favorably with other complex wage-and-hour
2 class and/or representative action settlements of similar type given the strengths and weaknesses
3 of the case; and (3) significant savings in attorneys' fees and/or costs that would have only
4 increased significantly had the case progressed through certification, trial, and/or appeals.

5 11. Since the above-captioned action was commenced, Plaintiff's Counsel has litigated
6 the case for several years, and was actively preparing the matter for class certification and trial.
7 The Parties have engaged in extensive settlement negotiations and participated in a formal, full-
8 day mediation conducted by Lynn S. Frank, Esq., a well-respected mediator experienced in
9 mediating complex labor and employment matters. Prior to and during the mediation and
10 settlement discussions, the Parties exchanged extensive information and engaged in discussions
11 regarding their evaluations of the case and various aspects of the case, including but not limited
12 to, the risks and delays of further litigation, the risks to the Parties of proceeding with class
13 certification and/or representative adjudication, the law relating to off-the-clock theory, meal and
14 rest periods, PAGA representative actions, and wage-and-hour law and enforcement, as well as
15 the evidence produced and analyzed, and the possibility of appeals, among other things. During
16 all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial
17 position. Arriving at a settlement that was acceptable to all Parties was not easy. Defendant and
18 its counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiff
19 and Plaintiff's Counsel believed that they would be able to obtain class certification and prevail at
20 trial. After conducting investigations, informal discovery, and exchange of information, extensive
21 settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that
22 the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims,
23 as well as the costs and risks to both sides that would attend further litigation. The Settlement is a
24 fair, reasonable, and adequate resolution of the Released Class Claims of Plaintiff and
25 Participating Class Members, and of the Released PAGA Claims of the State of California and
26 Aggrieved Employees.

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12. Prior to reaching the Settlement, Plaintiff's Counsel investigated the veracity, strength, and scope of the claims, and was preparing the action for class certification and trial. Plaintiff's Counsel conducted significant investigation and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of a large volume of documents and data obtained from Defendant, Plaintiff, and other sources. The volume of data and documents that Plaintiff's Counsel reviewed and analyzed included and was not limited to: Plaintiff's employment records, Class Members' time and pay data, job descriptions, checklists, internal memorandum, agreements (including, but not limited to, Defendant's Confidentiality Agreement), and forms (including, but not limited to, Defendant's Employee Action Form and Acknowledgement and Receipt of Factory Rules & Regulations), among other information and documents. Plaintiff's Counsel interviewed Plaintiff and conducted investigations to gather facts and circumstances surrounding Plaintiff and putative class members' employment and identified potential witnesses. Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, motion practice, and the production of documents and data in the course of litigation and prior to the mediation. Plaintiff's Counsel also drafted pleadings, drafted opposition papers in connection with motion practice (e.g., Defendant's demurrer and motion to strike portions of first amended complaint), and drafted the mediation brief and prepared for and attended court proceedings, mediation, and settlement negotiations, among other tasks.

13. Counsel for the Parties have also invested time researching and investigating the applicable law, which is often evolving as it relates to certification, civil penalties, representative PAGA claims, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiff's claims and damages, and Defendant's defenses thereto, as well as facts discovered. Based on Plaintiff's Counsel's analysis, the result achieved in this litigation is fair, adequate, and reasonable.

14. The Settlement provides for a Gross Settlement Fund of Four Million One Hundred Thousand Dollars (\$4,100,000.00). The Net Settlement Fund is the Gross Settlement Fund less the following amounts subject to approval by the Court: Attorneys' Fees and Costs, Enhancement

Award, Settlement Administration Costs, and the PAGA Amount. Assuming that the amounts allocated under the Settlement toward these payments are awarded by the Court, the Net Settlement Fund that will be available for distribution to Participating Class Members is currently estimated to be Two Million Four Hundred Forty Dollars (\$2,440,000.00). Additionally, 75% of the PAGA Amount (i.e., the LWDA Payment), which is \$112,500.00 out of \$150,000.00, will be distributed to the Labor and Workforce Development Agency and 25% of the PAGA Amount (i.e., the Aggrieved Employees Payment), which is \$37,500.00 out of \$150,000.00, will be distributed to the Aggrieved Employees. The Net Settlement Fund and PAGA Amount will be fully distributed in accordance with the terms of the Settlement and there is no reversion to Defendant.

15. The Parties have agreed to retain Simpluris, Inc. (“Settlement Administrator” or “Simpluris”) to handle the notice and settlement administration process. The Parties respectfully request that the Court appoint Simpluris, Inc. to handle these procedures and serve as the Settlement Administrator. Defendant will provide the Settlement Administrator with a list of Class Members that Defendant will compile from its records, which will include each Class Member’s full name, most current mailing address, telephone number, Social Security number, hire date of record with Defendant and termination date of record (if applicable), number of Workweeks, and number of Pay Periods (collectively, “Class List”), and the Settlement Administrator will calculate each Class Member’s estimated share of the Net Settlement Fund (“Individual Settlement Share”) and estimated share of the Aggrieved Employees Payment (“Individual PAGA Payment”). The Settlement Administrator will also receive Requests for Exclusion, Objections, and Workweeks Disputes; provide necessary reports and declarations; calculate, subtract, and transmit necessary taxes and withholdings; prepare and submit informational and other tax filings and documents; issue and transmit all payments provided for by the Settlement, including and not limited to, mailing payments to Participating Class Members and Aggrieved Employees; and perform any other usual and customary duties for administering a class action settlement. Settlement Administration Costs are currently estimated not to exceed Fifteen Thousand Dollars (\$15,000.00) and will be paid out of the Gross Settlement Fund, subject to approval of the Court.

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1 16. Based on investigation and information discovered, Plaintiff's Counsel believes that
2 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations
3 that Defendant, with respect to Plaintiff and the Class Members, *inter alia*, failed to properly pay
4 overtime and minimum wages, failed to provide compliant meal and rest periods and to pay
5 associated premium pay, failed to timely pay wages during employment and upon termination of
6 employment, failed to provide compliant wage statements, failed to maintain requisite payroll
7 records, and failed to reimburse necessary business expenses, and thereby engaged in unfair
8 business practices and conduct giving rise to civil penalties recoverable under the Private
9 Attorneys General Act of 2004 (California Labor Code sections 2698, et seq.). Plaintiff also
10 asserted that Class Members were expected to perform similar job duties and were subject to the
11 same or similar operations and employment policies, practices, and procedures. Additionally,
12 Plaintiff asserted that Defendant's recordkeeping practices with respect to Plaintiff and Class
13 Members were substantially the same during the time period at issue. As a result of said alleged
14 uniform practices, Plaintiff claims that Class Members were not paid all of the compensation that
15 was owed to them by Defendant. Thus, in Plaintiff's Counsel's view, it is clear that the outcome
16 of this litigation would be determined by Defendant's uniform operations and employment
17 practices, policies, and procedures that Plaintiff alleges applied across non-exempt, hourly-paid
18 employees who worked for Defendant in California during the relevant time period.

19 17. Plaintiff's Counsel is aware of the defenses and position of Defendant but believes
20 that Plaintiff could potentially obtain class certification despite many obstacles. Plaintiff and
21 Plaintiff's Counsel have also taken into account the uncertainty and risk of the outcome of further
22 litigation, and the difficulties and delays inherent in such litigation, including those involved in
23 class certification and/or representative adjudication. Plaintiff and Plaintiff's Counsel further
24 recognize the burdens of proof necessary to establish liability for the claims asserted in the lawsuit,
25 Defendant's defenses, and the difficulties in establishing entitlement to monetary recovery.
26 Plaintiff and Plaintiff's Counsel have also considered the Parties' settlement discussions, as well
27 as the evaluations of the mediator, who is experienced and well-regarded in complex labor and
28 employment matters.

1 18. Defendant, on the other hand, denied and continues to deny any liability and
2 wrongdoing of any kind associated with the allegations in the lawsuit, and further denies that the
3 lawsuit is appropriate for class treatment or representative adjudication for any purpose other than
4 the Settlement. Defendant believes that it would ultimately succeed in the matter. Both sides have
5 also had the opportunity to conduct investigations and gather documents and information relating
6 to Plaintiff's and Class Members' employment with Defendant, and Defendant's operations and
7 employment policies, practices, and procedures. The Parties also reviewed and analyzed a volume
8 of documents and data, including but not limited to Class Members' time and pay information, to
9 determine the potential value and strength of the claims. The available information enabled
10 Plaintiff's Counsel to assess and value the class and PAGA claims and prepare violation, damages,
11 and penalties analyses and models. Accordingly, the Parties have conducted adequate
12 investigation to be sufficiently informed of the nature and extent of the class and PAGA claims,
13 and to enable both sides to fully evaluate the Settlement for its fairness, adequacy, and
14 reasonableness. The Settlement takes into account the strengths and weaknesses of each side's
15 position and the uncertainty of how the case might have concluded at certification, trial, and/or
16 appeals.

17 19. The Settlement Agreement provides for Plaintiff's Counsel to apply for attorneys'
18 fees in an amount of up to thirty-five percent (35%) of the Gross Settlement Fund
19 (i.e., \$1,435,00.00 if the Gross Settlement Fund is \$4,100,000.00) and expenses and costs in an
20 amount not to exceed Fifty Thousand Dollars (\$50,000.00), which will be paid out of the Gross
21 Settlement Fund, subject to approval by the Court. It should be noted that Plaintiff's Counsel has
22 borne all of the risks and costs of litigation and will not receive any compensation until recovery
23 is obtained.

24 20. The Settlement Agreement provides for payment of up to Ten Thousand Dollars
25 (\$10,000.00) to Plaintiff as an Enhancement Award, to be paid out of the Gross Settlement Fund
26 subject to approval by the Court. Plaintiff spent considerable time and effort to produce relevant
27 documents and past employment records and to provide the facts and evidence necessary to
28 attempt to prove the allegations. Plaintiff was available whenever Plaintiff's Counsel needed

1 Plaintiff, and actively tried to obtain information that would facilitate the pursuit of the class and
2 PAGA claims. Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement
3 Award, in addition to an individual settlement payment, for his services in the case.

4 27. Plaintiff's Counsel submits that the Settlement is fair, reasonable, and adequate, and
5 is in the best interests of Plaintiff, the Class, the State of California, and the Aggrieved Employees.
6 Plaintiff's Counsel further submits that the Settlement is within an acceptable range of recovery
7 for this type of litigation given the strengths and weaknesses of the case, the inherent costs and
8 risks of further litigation, and the costs and risks associated with class certification, representative
9 adjudication, trial, and/or appeals.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct.

12 Executed on this 1st day of February 2023, at Los Angeles, California.

13 

14

Alexandra Rose

EXHIBIT 1

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14 MYERS POWER PRODUCTS, INC.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **FOR THE COUNTY OF SAN BERNARDINO**

17 ANDRES CASAS, individually, and on behalf
18 of other members of the general public similarly
situated,

19 Plaintiff,

20 v.

21 MYERS POWER PRODUCTS, INC., an
unknown business entity; and DOES 1 through
22 100, inclusive

23 Defendants.

Case No. CIVDS1920109

[Assigned for All Purposes to Hon. David
Cohn, Dept. S26]

STIPULATION FOR:

- (1) **LEAVE TO FILE SECOND AMENDED COMPLAINT; AND**
(2) **SETTLEMENT AND RELEASE OF CLASS ACTION AND PAGA CLAIMS**

STIPULATION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT
AND CLASS ACTION AND PAGA SETTLEMENT
AND RELEASE OF CLAIMS

This Stipulation for Leave to File Second Amended Complaint and Class Action and PAGA Settlement and Release of Claims (“**Settlement Agreement**,” “**Settlement**” or “**Agreement**”) is made and entered into by and between Plaintiff ANDRES CASAS (“**Plaintiff**” or “**Class Representative**”), individually, and as a proposed representative on behalf of the Class to be certified pursuant to this Settlement Agreement (as described in Paragraph 3, below) and on behalf of the State of California with respect to the Aggrieved Employees (as a private attorney general pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code Section 2698, *et seq.* [**“PAGA”**]), on the one hand, and Defendant MYERS POWER PRODUCTS, INC. (“**Defendant**”), on the other hand, in *Casas v. Myers Power Products, Inc.*, filed in the Superior Court of the State of California for the County of San Bernardino (“**Court**”), Case No. CIVDS1920109 (the “**Action**”).

This Settlement Agreement pertains to all of the Released Class Claims and Released PAGA Claims as defined in this Agreement, below. This Settlement Agreement is subject to the terms and conditions hereof and the approval of the Court. For purposes of this Settlement Agreement, Plaintiff and Defendant are each referred to individually as a “**Party**” and collectively as the “**Parties.**”

BACKGROUND

1. Complaints. On July 10, 2019, Plaintiff filed his Class Action Complaint for Damages with the Court, thereby commencing a putative class action against Defendant (the “**Original Complaint**”). On December 20, 2019, Plaintiff filed his First Amended Class Action Complaint for Damages (the “**FAC**”) with the Court.

2. Mediation. On September 21, 2021, the Parties participated in a private mediation with mediator Lynn Frank. As a result of the mediation, the Parties reached the settlement memorialized in this Agreement, entered into a Memorandum of Understanding, and, pursuant thereto, have prepared and are entering into this Settlement Agreement to resolve all of the claims being released herein.

1 3. Certification of Class for Settlement Purposes. For purposes of this Settlement
2 only, the “**Class**” or “**Class Members**” consists of all current and former non-exempt, hourly-paid
3 employees employed by Defendant, who are working or who worked in the State of California at
4 any time during the time period from July 10, 2015 through and including the date of preliminary
5 approval by the Court of this Settlement Agreement (the “**Class Period**”), and expressly excluding
6 therefrom any individual who, as of the date the Court grants preliminary approval of this Settlement
7 Agreement, has filed a separate lawsuit of any type as a named plaintiff against Defendant, alleging
8 the same or similar claims being released by this Settlement and/or who has previously released such
9 claims. The “**Class Settlement**” means the settlement and resolution of all Released Class Claims
10 (as defined herein).

11 4. Aggrieved Employee Group for Settlement Purposes. For purposes of this
12 Settlement only, the “**Aggrieved Employees**” consists of all current and former non-exempt, hourly-
13 paid employees employed by Defendant, who are working or who worked in the State of California
14 at any time during the time period from July 10, 2018 through and including the date of preliminary
15 approval by the Court of this Settlement Agreement (the “**PAGA Period**”). The “**PAGA**
16 **Settlement**” means the settlement and resolution of all Released PAGA Claims (as defined herein).

17 5. No Admission of Liability by the Defendant. Defendant denies any liability or
18 wrongdoing of any kind associated with the Action and the claims being released herein. Defendant
19 contends, among other things, that it has complied at all times with all applicable California laws
20 and asserts that the Class Members and Aggrieved Employees were properly compensated for all
21 time worked, and otherwise treated at all times in compliance with California law. Neither this
22 Settlement Agreement nor any exhibit hereto, nor any other document pertaining to the settlement
23 contemplated herein, may be offered in any other case or proceeding as evidence of any admission
24 by Defendant of any liability on any claims for damages or other relief. Any stipulation or admission
25 by Defendant contained herein is made for settlement purposes only.

26 6. Fair, Reasonable, and Adequate Settlement. Nevertheless, in the interest of
27 avoiding the costs and disruption of ongoing litigation and resolving the claims being released
28 herein, the Parties believe that the settlement negotiated between them and set forth in this Settlement

1 Agreement is fair, reasonable, and adequate.

2 7. It is the desire of Plaintiff, on his own behalf and on behalf of the Class Members
3 and the State of California with respect to the Aggrieved Employees (as a private attorney general
4 pursuant to PAGA), to fully, finally, and forever settle, compromise, and discharge the Released
5 Parties of all Released Class Claims and Released PAGA Claims as defined in this Agreement,
6 below.

7 **TERMS OF THE SETTLEMENT**

8 8. Conditional Leave to File Second Amended Class Action Complaint. Solely for
9 purposes of this Settlement only, and the Court granting preliminary and final approval thereof, the
10 Parties hereby stipulate and agree, subject to the Court's entry of such approval orders, that leave to
11 file the proposed Second Amended Class Action Complaint for Damages & Enforcement Under the
12 Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("**SAC**" or "**Operative**
13 **Complaint**"), attached hereto as **Exhibit A**, be granted, which pleads additional factual allegations
14 and claims, and adds a claim under PAGA, all of which were investigated, litigated, mediated, and
15 resolved in the Action. Plaintiff's motion for preliminary approval of the Settlement will request
16 conditional leave to file the SAC solely for purposes of this Settlement, and all allegations therein
17 shall be deemed to relate back to the date of the filing of Plaintiff's Original Complaint, with
18 Defendant's currently operative Answer to the FAC, filed on September 2, 2020, being deemed to
19 be its Answer to the SAC. Should, for whatever reason, the Court require Defendant to file an
20 answer to the SAC, then, Defendant will cooperate in doing so. Should, for whatever reason, the
21 settlement set forth in this Settlement Agreement not become final, the SAC shall be deemed
22 stricken, null, and void *ab initio*, with the previously filed FAC in the Action remaining the operative
23 pleading.

24 9. LWDA Notice: On December 28, 2021, Plaintiff provided written notice to the
25 California Labor and Workforce Development Agency ("**LWDA**") and Defendant of the specific
26 provisions of the California Labor Code that Plaintiff contends were violated and for which Plaintiff
27 seeks civil penalties under PAGA ("**LWDA Notice**"), which was assigned LWDA Case No.
28 LWDA-CM-859954-21, attached hereto as **Exhibit B**. Should, for whatever reason, the settlement

1 set forth in this Settlement Agreement not become final, the LWDA Notice shall be deemed
2 withdrawn, null and void *ab initio*. For purposes of this Settlement only, Defendant waives any
3 defenses as to timeliness/statute of limitations of such LWDA Notice and/or the bringing of the
4 PAGA claim in the SAC as long as this Settlement Agreement receives final approval by the Court
5 and such final approval becomes effective.

6 10. Stipulation for Conditional Class Certification: The Parties stipulate and agree to
7 the conditional certification of the Class in the Action for purposes of this Settlement only. Should,
8 for whatever reason, the settlement set forth in this Settlement Agreement not become final, the
9 Parties' stipulation to such class certification as part of this Settlement shall become null and void
10 *ab initio* and shall have no bearing on, and shall not be admissible in connection with, the issue of
11 whether or not certification would be appropriate in a non-settlement context. Defendant expressly
12 reserves its rights and declares that, to the extent Plaintiff may otherwise be permitted to seek class
13 certification, it intends to oppose class certification vigorously should this Settlement not become
14 final and putative class action claims are allowed to be pursued in the Action or any other action or
15 proceeding.

16 11. Establishment of the Gross Settlement Fund: Defendant will pay the entirety of the
17 agreed upon total settlement amount of Four Million One Hundred Thousand Dollars
18 (\$4,100,000.00) ("**Gross Settlement Fund**" or "**GSF**") in accordance with the terms of this
19 Agreement, subject to increase pursuant to Paragraph 22, on a non-reversionary basis.

20 12. The payment by Defendant of the total Gross Settlement Fund of \$4,100,000.00,
21 pursuant to this Settlement Agreement, shall settle and forever resolve all of the Released Class
22 Claims and Released PAGA Claims as defined in this Agreement, below, and will cover the payment
23 of all Individual Settlement Shares to Participating Class Members, including any employee-side
24 payroll taxes and withholdings required under applicable law, all Individual PAGA Payments to
25 Aggrieved Employees, all Settlement Administration Costs for the Settlement Administrator, all
26 Attorneys' Fees and Costs for Class Counsel, the Enhancement Award for the Class Representative,
27 and the LWDA Payment to the LWDA. Defendant's employer-side payroll taxes which may be
28 owed as a result of the allocated wages portion of the Individual Settlement Shares ("**Employer**

1 **Taxes**") as set forth in this Settlement Agreement will be paid separately and in addition to the GSF.
2 The payments made to Plaintiff, Participating Class Members, and Aggrieved Employees will not
3 be construed as "compensation" for purposes of determining eligibility for any health and welfare
4 benefits, unemployment compensation, or other compensation or benefits provided by Defendant.
5 In addition, no individual receiving a payment based on this Settlement shall be entitled to any
6 additional or increased health, welfare, retirement, or other benefits as a result of their participation
7 in the Settlement and/or receipt of payment under this Settlement.

8 13. Calculation of the Net Settlement Fund: The total sum from which Participating
9 Class Members will be paid (the "**Net Settlement Fund**" or "**NSF**") shall be the Gross Settlement
10 Fund less the following: Settlement Administration Costs, PAGA Amount, Attorneys' Fees and
11 Costs, and Enhancement Award. The remaining sum after all these deductions shall represent the
12 NSF, which will be used to calculate the Individual Settlement Share that each Class Member who
13 does not submit a timely and valid Request for Exclusion ("**Participating Class Member**" or
14 "**Participating Class Members**") will be eligible to receive under the terms of this Settlement.

15 14. Effective Date: This Settlement Agreement shall only become effective upon the
16 occurrence of the Effective Date. For purposes of this Settlement Agreement, the "**Final Approval**
17 **Order and Judgment**" means the Court's order determining that the Settlement is fair, reasonable,
18 and adequate, granting final approval of the Settlement, and entry of judgment based thereon. For
19 purposes of this Settlement Agreement, the "**Effective Date**" means: (i) in the event that the Final
20 Approval Order and Judgment has been entered by the Court, and regardless of whether any timely
21 objections thereto have been filed or withdrawn, then upon the passage of the applicable date for
22 any interested party to seek appellate review of the Court's Final Approval Order and Judgment
23 without a timely appeal being filed; or, (ii) in the event that a timely appeal of the Court's Final
24 Approval Order and Judgment has been filed, then when the applicable appellate court has rendered
25 a final decision or opinion affirming the Court's Final Approval Order and Judgment without
26 material modification, and the applicable date for seeking further appellate review has passed
27 without further appellate review being sought. In the event that the Court fails to approve the
28 Settlement, or if the appropriate appellate court fails to approve the Settlement: (1) this Settlement

1 Agreement shall have no force and effect and the Parties shall be restored to their respective positions
2 prior to entering into it, and no Party shall be bound by any of the terms of the Settlement Agreement;
3 (2) Defendant shall have no obligation to make any payments to the LWDA, Class Members
4 (whether or not they are Participating Class Members), Aggrieved Employees, Plaintiff, or Class
5 Counsel; and (3) any preliminary approval order and/or Final Approval Order and Judgment shall
6 be vacated.

7 15. Mediation and Settlement Communications: This Settlement Agreement and all
8 negotiations, statements, proceedings, and data relating thereto shall be deemed confidential
9 mediation settlement communications and not subject to disclosure for any purpose in any
10 proceeding, except only as required to obtain approval of and implement the Settlement in this
11 Action and/or to enforce the Settlement.

12 16. PAGA Amount: The amount of One Hundred Fifty Thousand Dollars
13 (\$150,000.00) from the GSF shall be allocated to penalties under PAGA (“**PAGA Amount**”),
14 subject to the Court’s approval, of which 75% of the PAGA Amount (i.e., \$112,500.00) will be paid
15 to the LWDA (“**LWDA Payment**”) and 25% of the PAGA Amount (i.e., \$37,500.00) will be
16 distributed to the Aggrieved Employees on a *pro rata* basis based on their Pay Periods during the
17 PAGA Period (“**Aggrieved Employees Payment**”).

18 17. Attorneys’ Fees and Costs: “**Class Counsel**” means Edwin Aiwazian, Esq., Arby
19 Aiwazian, Esq., and Joanna Ghosh, Esq. of Lawyers for Justice, PC. Subject to approval of the
20 Court, Class Counsel shall be appointed as counsel for the Class, and may apply for an award of
21 attorneys’ fees and costs and expenses incurred in connection with the Action, and all of the work
22 remaining to be performed by Class Counsel in documenting the Settlement, securing Court approval
23 of the Settlement (including all related appellate work), and carrying out their duties to see that the
24 Settlement is fairly administered and implemented, in an amount of up to thirty-five percent (35%)
25 of the GSF for attorneys’ fees (i.e., up to \$1,435,000.00 if the GSF is \$4,100,000.00) and in an
26 amount of up to \$50,000.00 for reimbursement of reasonable costs and expenses incurred by Class
27 Counsel in connection with the Action (together, “**Attorneys’ Fees and Costs**”). Amounts awarded
28 by the Court for Attorneys’ Fees and Costs shall be paid from the GSF. With respect to the Court-

1 approved Attorneys' Fees and Costs to Class Counsel, the Settlement Administrator may purchase
2 an annuity to utilize United States Treasuries and bonds or utilize other attorney fee deferral vehicles
3 for Class Counsel, and any additional expenses for doing so shall be paid separately by Class Counsel
4 and shall not be included within the Settlement Administration Costs or otherwise paid out of the
5 GSF.

6 18. Enhancement Award: Subject to approval by the Court, Plaintiff may seek an
7 award in the amount of up to \$10,000.00 in consideration for serving as a representative of the Class
8 ("**Enhancement Award**"). The Enhancement Award, which will be paid from the GSF, is in
9 addition to the Individual Settlement Share and Individual PAGA Payment (if applicable) to which
10 Plaintiff is otherwise eligible to receive under this Settlement. Plaintiff hereby understands and
11 agrees that he is not eligible for future employment with Defendant and that Defendant is under no
12 obligation and can decline to hire Plaintiff if he ever applies for or seeks such employment, and
13 Defendant can terminate Plaintiff's employment sought and obtained in violation of the foregoing
14 without obtaining Defendant's written consent. The Parties agree that California Code of Civil
15 Procedure § 1002.5 does not apply to the circumstances presented here, which do not involve claims
16 of discrimination, retaliation, sexual assault, or sexual harassment. Parties agree that there are
17 legitimate nondiscriminatory and nonretaliatory reasons supporting Defendant's declining to rehire
18 Plaintiff.

19 19. In the event lesser sums are awarded for Attorneys' Fees and Costs than those
20 referenced in Paragraph 17, above, or for the Enhancement Award referenced in Paragraph 18,
21 above, the approval by the Court of any such lesser sum(s) shall not be grounds for Plaintiff and/or
22 Class Counsel to terminate the Settlement, but such an order shall be appealable by them. In the
23 event that such an appeal is filed, administration of the Settlement shall be stayed pending resolution
24 of the appeal. Thereafter, if after the exhaustion of such appellate review, any additional amounts
25 remain that are distributable to the Participating Class Members, the cost of administration of such
26 additional payments will be paid out of such additional amounts and will not be chargeable to or
27 payable by Defendant. Any amount not awarded for Attorneys' Fees and Costs or the Enhancement
28 Award, but which is not challenged via appeal by Plaintiff and/or Class Counsel, shall be added to

1 the NSF and distributed to the Participating Class Members in accordance with the terms of this
2 Settlement Agreement.

3 20. Settlement Administration Costs: Subject to Court approval, the Parties designate
4 Simpluris, Inc. to administer the Settlement (“**Settlement Administrator**”), with a preliminary
5 budget to administer the Settlement for fees and costs of up to \$15,000.00 (“**Settlement**
6 **Administration Costs**”). The Settlement Administrator’s duties of administration shall include,
7 without limitation, receiving the Class List to be produced by Defendant and updating it prior to the
8 Notice being mailed, printing and mailing the Notice, performing necessary additional skip traces
9 on Notices and/or checks returned as undeliverable, calculating Class Members’ estimated and final
10 shares of the NSF, calculating Aggrieved Employees’ shares of the Aggrieved Employees Payment,
11 preparing and mailing of settlement checks, establishing a settlement website as described hereafter,
12 responding to Class Member inquiries as appropriate, preparing any appropriate tax forms in
13 connection with the settlement payments and remitting those forms and any required payments to
14 the appropriate governmental agencies, and generally performing all normal and customary duties
15 associated with the administration of such settlements. The Settlement Administrator and Defendant
16 will be required to cooperate and coordinate with each other with respect to the calculation,
17 reporting, and payment of all payroll taxes and withholdings in accordance with all applicable laws
18 and requirements of government taxing authorities. The Settlement Administration Costs for the
19 Settlement Administrator’s services will be paid out of the GSF. Any portion of the estimated,
20 designated, and/or awarded Settlement Administration Costs which are not in fact awarded or
21 required to fulfill payment to the Settlement Administrator to undertake the requirement settlement
22 administration duties will be part of the Net Settlement Fund for the benefit of the Participating Class
23 Members. The Settlement Administrator will coordinate the calculations of the payroll taxes and
24 deductions with Defendant to ensure that, to the extent such taxes and deductions are or could be
25 deemed to have been made by the Settlement Administrator on behalf of Defendant by government
26 taxing authorities, they are made in compliance with Defendant’s respective tax withholding and
27 remittance obligations for such payments. The Parties and their counsel each represent that they do
28 not have any financial interest in the Settlement Administrator or otherwise have a relationship with

1 the Settlement Administrator that could create a conflict of interest.

2 21. No Claim Form Required: Only Participating Class Members shall share in the
3 NSF referred to in Paragraph 13, as set forth in more detail in Paragraph 26 hereafter. Participating
4 Class Members shall not be required to complete a claim form.

5 22. Escalator Clause: As of September 21, 2021, Defendant estimated that the Class is
6 comprised of 507 individuals who will have worked 62,946 Workweeks. If, on the date of
7 preliminary approval of this Settlement Agreement, the number of Workweeks for all Class
8 Members exceeds 62,946 by more than 10% (i.e., 69,240) (the “**Buffer**”), then at Defendant’s
9 option:

10 a. The GSF will be increased by the amount of the GSF divided by 62,946 for
11 each additional Workweek over the Buffer; or

12 b. Defendant may elect to end the Class Period (defined in Paragraph 3 above)
13 on the date at which the Workweeks reached 69,240; or

14 c. The Parties will confer on whether any of the terms of this Settlement should
15 be changed, and if an agreement cannot be reached as to whether any terms should be changed and
16 in what manner within ten (10) court days after learning that the Buffer would be exceeded, then
17 Defendant may give notice that it is terminating the Settlement within two (2) court days thereafter.

18 23. Compilation of Class List: The Parties agree that within thirty (30) calendar days
19 after the Court grants preliminary approval of this Settlement, Defendant will provide a list to the
20 Settlement Administrator, which shall include the following most up to date information about each
21 Class Member as reflected in Defendant’s personnel records in an electronic format: (a) full name;
22 (b) most current mailing address; (c) telephone number; (d) Social Security Number; (e) hire date of
23 record with Defendant and termination date of record (if applicable); (f) number of Workweeks; and
24 (g) number of Pay Periods (collectively, the “**Class List**”). Defendant shall calculate and provide to
25 the Settlement Administrator, from Defendant’s records as reflected on the Class List, the number
26 of weeks worked by each Class Member for Defendant as a non-exempt, hourly-paid employee in
27 California during the Class Period (“**Workweeks**”). Workweeks will be calculated by use of
28 Defendant’s timekeeping and payroll records to determine Workweeks in which work was actually

1 performed by each Class Member. Defendant shall also calculate and provide to the Settlement
2 Administrator, from Defendant's records as reflected on the Class List, the number of pay periods
3 worked by each Aggrieved Employee for Defendant as a non-exempt, hourly-paid employee in
4 California during the PAGA Period ("**Pay Periods**"). Pay Periods will be calculated by use of
5 Defendant's timekeeping and payroll records to determine Pay Periods in which work was actually
6 performed by each Aggrieved Employee. The Class List provided to, updated and maintained by
7 the Settlement Administrator shall be used only by the Settlement Administrator and only for
8 purposes of administering the settlement as provided for in this Agreement. The Settlement
9 Administrator shall not disclose the contents thereof except as expressly permitted under this
10 Agreement. The restrictions on the use and disclosure of the Class List set forth in this Agreement
11 shall be deemed, upon entry of the Court's Order granting preliminary approval of this Settlement,
12 to be a protective order entered by the Court subject to full enforcement by the Parties to this
13 Agreement and the Court, and by taking on the administration of the Settlement, the Settlement
14 Administrator agrees that it and its employees, agents and representatives are bound by such
15 protective order. To facilitate this, the proposed orders granting preliminary and final approval of
16 this Settlement will contain language referencing that, by granting preliminary approval of this
17 Settlement, the court is also approving these protective order terms.

18 24. Requests by Purported Omitted Class Members: In response to any contention by
19 an individual that he or she is a Class Member who was omitted from the Class List, made on or
20 before the Response Deadline, Defendant will first verify the information contained in the personnel
21 file of the individual at issue and Defendant's payroll records. Unless the individual at issue can
22 establish that they should have been included in the Class List, by way of supporting documentation,
23 Defendant's records will control. Class Counsel and Defendant's counsel will then make a good
24 faith effort to determine whether or not the individual at issue is a Class Member. If counsel for the
25 Parties cannot agree, then the Settlement Administrator shall determine whether the individual at
26 issue is a Class Member, who shall examine the records provided by Defendant and the individual
27 at issue, and shall be the final arbiter of whether or not the individual at issue is a Class Member,
28 subject to final review, determination, and approval by the Court. If individuals who were not

1 included in the Class List provided by Defendant are determined to be Class Members under this
2 provision, and this causes the Buffer as defined in Paragraph 22 to be exceeded as set forth therein,
3 then the provisions of Paragraph 22(a)-(c) apply.

4 25. Dissemination of Notice of Class Action Settlement: Within ten (10) business days
5 of its receipt of the Class List, the Settlement Administrator will update addresses contained in the
6 Class List by conducting a skip-trace search and will send the Notice of Class Action Settlement
7 (“**Notice**”) to the Class Members, by first-class mail, at their most current address of record or such
8 other address as located by the Settlement Administrator, in the form attached hereto as **Exhibit C**
9 or as otherwise approved by the Court.

10 26. Calculation of Participating Class Members’ Shares of the Net Settlement Fund:
11 The Settlement Administrator will calculate the amounts due to each Class Member in accordance
12 with this Settlement. Each Class Member’s *pro rata* share of the NSF (“**Individual Settlement**
13 **Share(s)**”) will be calculated initially for purposes of mailing the Notice by multiplying the NSF by
14 a fraction, the numerator of which is the Class Member’s individual number of Workweeks, and the
15 denominator of which is the total number of Workweeks of all Class Members. Each Participating
16 Class Member’s final Individual Settlement Share for purposes of payment will be calculated by
17 multiplying the NSF by a fraction, the numerator of which is the Participating Class Member’s
18 individual number of Workweeks, and the denominator of which is the total number of Workweeks
19 of all Participating Class Members.

20 27. Calculation of Aggrieved Employees’ Shares of the Aggrieved Employees
21 Payment: The Settlement Administrator will calculate the amounts due to each Aggrieved Employee
22 in accordance with this Settlement. Each Aggrieved Employee’s *pro rata* share of the Aggrieved
23 Employees Payment (“**Individual PAGA Payment**”) will be calculated by multiplying the
24 Aggrieved Employees Payment by a fraction, the numerator of which is the Aggrieved Employee’s
25 total number of Pay Periods, and the denominator of which is the total number of Pay Periods of all
26 Aggrieved Employees. Aggrieved Employees will receive their Individual PAGA Payment
27 regardless of whether they submit a timely and valid Request for Exclusion from the Class
28 Settlement.

1 28. Right to Opt Out, Object, and/or Dispute Workweeks: The Notice will be mailed
2 to all Class Members and will advise each Class Member of their right to opt out of the Class
3 Settlement, object to all or any part of the Class Settlement, and/or dispute the number of Workweeks
4 credited to them. Any Class Member who wishes to opt out of the Class Settlement, object to the
5 Class Settlement, and/or dispute the number of Workweeks credited to him or her, must do so in
6 writing to the Settlement Administrator postmarked no later than forty-five (45) calendar days from
7 the date of the initial mailing of the Notice to the Class Members (“**Response Deadline**”). In the
8 event that a Notice is re-mailed to a Class Member, the Response Deadline for that Class Member
9 shall be extended by fifteen (15) calendar days.

10 a. Opting Out of the Class Settlement: A Class Member may request to opt
11 out of and be excluded from the Class Settlement by submitting a written request (“**Request for**
12 **Exclusion**”) to the Settlement Administrator, which must: (i) include the full name, current mailing
13 address, telephone number, signature, and last four digits of the Social Security number of the Class
14 Member seeking exclusion; (ii) include the case name and number of the Action; (iii) include a
15 statement that the Class Member seeks to be excluded from the Class Settlement which is the same
16 or substantially similar to the following language: “I elect to opt-out of the *Casas v. Myers Power*
17 *Products, Inc.* class action settlement. I understand that by doing so, I will not participate in the
18 class settlement, and will not receive payment of an Individual Settlement Share;” and (iv) be
19 submitted by mail to the Settlement Administrator at the specified address, postmarked on or before
20 the Response Deadline. In the event that ten percent (10%) or more of the Class Members submit a
21 timely and valid Request for Exclusion, Defendant will have the option to rescind and terminate the
22 Settlement resulting in both Parties returning to their pre-settlement positions in the Action. Should
23 the ten percent (10%) threshold for opt outs be reached or exceeded, the Settlement Administrator
24 shall notify lead counsel for all Parties via email immediately, and Defendant shall have ten (10)
25 calendar days from the date of the Settlement Administrator’s email to exercise its option to rescind
26 and terminate the Settlement as referenced in this Paragraph. If the Settlement is terminated due to
27 Defendant’s exercise of this option, Defendant will be responsible for paying all Settlement
28 Administration Costs incurred by the Settlement Administrator to the date of the termination. At no

1 time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to
2 opt out of the Class Settlement. There is no right to opt out of the PAGA Settlement; any Class
3 Member who qualifies as an Aggrieved Employee will still be bound by the release of Released
4 PAGA Claims and will still receive an Individual PAGA Payment irrespective of whether he/she
5 opts out of the Class Settlement.

6 b. Objecting to the Class Settlement: A Class Member may object to the Class
7 Settlement, as long as he or she had not submitted a Request for Exclusion (i.e., he or she is a
8 Participating Class Member), by submitting a written objection (“**Objection**”) to the Settlement
9 Administrator, which must: (i) include the full name, current mailing address, telephone number,
10 signature, and last four digits of the Social Security number of the objecting Class Member; (ii)
11 include the case name and number of the Action; (iii) include a statement indicating the legal and
12 factual grounds for the objection; (iv) include a statement indicating whether the objecting Class
13 Member is represented by counsel and identifying any such counsel; (v) include a statement
14 indicating whether the objecting Class Member intends to appear for and wishes to be heard at the
15 Final Approval Hearing; and (vi) be submitted by mail to the Settlement Administrator at the
16 specified address, postmarked on or before the Response Deadline. Participating Class Members
17 will also have the right to appear at the Final Approval Hearing in order to orally present objections
18 to the Court, whether or not they have submitted a written objection. At no time will any of the
19 Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Class
20 Settlement or appeal from the Final Approval Order and Judgment.

21 c. Disputing Workweeks: Class Members may dispute the number of
22 Workweeks credited to him or her, as reflected in their Notices, by submitting a written dispute
23 (“**Workweeks Dispute**”) to the Settlement Administrator, which must: (i) include the full name,
24 current mailing address, telephone number, signature, and last four digits of the Social Security
25 number of the disputing Class Member; (ii) include the case name and number of the Action; (iii)
26 include a statement indicating that the Class Member seeks to dispute the number of Workweeks
27 credited to him or her, the time period(s) he or she worked for Defendant in a non-exempt, hourly-
28 paid position in California during the Class Period, and the number of Workweeks that he or she

1 contends should be credited to him or her; (iv) include documentation and/or other facts supporting
2 the Class Member's position; and (v) be submitted by mail to the Settlement Administrator at the
3 specified address, postmarked on or before the Response Deadline. In response to any timely and
4 valid Workweeks Dispute, Defendant will first verify the information contained in the disputing
5 Class Member's personnel file and Defendant's payroll records. Unless the Class Member can
6 establish that the number of Workweeks credited to him or her is incorrect, by providing
7 documentation in support thereof or other details to substantiate his or her position, the total number
8 of Workweeks established by Defendant's records will control. Class Counsel and Defendant's
9 counsel will then make a good faith effort to resolve the dispute informally before the Final Approval
10 Hearing. If counsel for the Parties cannot agree, the dispute shall be resolved by the Settlement
11 Administrator before the Final Approval Hearing, who shall examine the records provided by the
12 Defendant and the Class Member and shall be the final arbiter of disputes relating to a Class
13 Member's Workweeks. The Settlement Administrator's determination regarding any such dispute
14 shall be final for purposes of administering notice of the Settlement, subject to final review,
15 determination, and approval by the Court.

16 29. Funding of Settlement: Within ten (10) business days following the occurrence of
17 the Effective Date, Defendant shall transfer the GSF in the amount of Four Million One Hundred
18 Thousand Dollars (\$4,100,000.00) plus the amount of the Employer Taxes to a qualified settlement
19 fund account established by the Settlement Administrator. Thereafter, the Settlement Administrator
20 shall distribute the funds as soon as is practical in accordance with the terms of this Settlement
21 Agreement and as ordered by the Court. No funds will be payable by Defendant prior to the time
22 specified in this Paragraph.

23 30. Payment Procedures: Within ten (10) business days after receiving the GSF, the
24 Settlement Administrator shall distribute payments of the approved Individual Settlement Shares to
25 Participating Class Members, Individual PAGA Payments to Aggrieved Employees, Attorneys' Fees
26 and Costs to Class Counsel, Enhancement Award to the Class Representative, LWDA Payment to
27 the LWDA, and Settlement Administration Costs to the Settlement Administrator, in accordance
28 with this Settlement Agreement and as ordered by the Court.

31. Tax Treatment of Settlement Payments:

a. Each Individual Settlement Share will be allocated as 20% wages (“**Wages Portion**”), 20% civil or statutory penalties, 30% statutory and other non-wage damages, and 30% interest. The penalties, statutory and other non-wage damages, and interest portions are collectively referred to as “**Non-Wage Portions**.” Each Individual PAGA Payment will be allocated as 100% penalties, which will be reported on IRS Form 1099 (if applicable).

b. Prior to distribution, Individual Settlement Shares will be subject to reduction for required employee-side payroll taxes, contributions, and withholding with respect to the Wages Portion, resulting in a net payment which is referred to as the “**Individual Settlement Payment**.”

c. Each recipient of any monies paid in accordance with this Settlement Agreement is responsible for any taxes associated with the monies received by each recipient.

d. The Settlement Administrator will issue IRS Form W-2 to Participating Class Members for the Wages Portion. Where otherwise required, the Settlement Administrator will prepare an IRS Form 1099 (if applicable) for Participating Class Members for the Non-Wage Portions. The Settlement Administrator will be responsible for issuing these forms timely and correctly. Participating Class Members will be responsible for correctly characterizing the compensation that they receive, including as set forth in any IRS Form W-2 or 1099 they receive from the Settlement Administrator.

e. The Parties acknowledge and agree that neither they nor their attorneys have made any representations regarding the tax consequences of any and all payments made under this Settlement Agreement. Participating Class Members and Aggrieved Employees will be required to pay all federal, state, or local taxes, if any, which are required by law to be paid with respect to any and all payments made to them under the Settlement. The Parties further agree that Defendant shall have no legal obligation to pay, on behalf of Participating Class Members, any taxes, deficiencies, levies, assessments, fines, penalties, interest or costs, which may be required to be paid with respect to the settlement payments except as may be expressly set forth in this Agreement.

1 32. Tax Treatment of Enhancement Award and Attorneys' Fees and Costs: The
2 Settlement Administrator will issue Plaintiff and Class Counsel an IRS Form 1099 for the
3 Enhancement Award and Attorneys' Fees and Costs. Plaintiff and Class Counsel will be solely
4 responsible for correctly characterizing this compensation for tax purposes and for payment of any
5 taxes owing on said amounts. Prior to receiving the payments specified herein, the Class
6 Representative and Class Counsel each shall deliver to the Settlement Administrator a properly
7 completed and signed W-9 and any other necessary tax forms requested by the Settlement
8 Administrator.

9 33. Settlement Checks:

10 a. The Settlement Administrator will be responsible for issuing the Individual
11 Settlement Payments by way of check to the Participating Class Members and the Individual
12 PAGA Payments by way of check to the Aggrieved Employees in accordance with this Settlement
13 Agreement. The Settlement Administrator, may, at its discretion, distribute the Individual
14 Settlement Payment and Individual PAGA Payment by way of a single check that combines both
15 payments (if applicable).

16 b. Each Individual Settlement Payment check will contain language in
17 substantially the following form: "I understand that by cashing, depositing, or otherwise
18 negotiating this check, and to the extent required under applicable law, I will be deemed to have
19 opted into *Casas v. Myers Power Products, Inc.* (Case No. CIVDS1920109) for purposes of the
20 federal Fair Labor Standards Act (FLSA) and to have released the Released Class Claims arising
21 under the FLSA."

22 c. Individual Settlement Payment and Individual PAGA Payment checks will
23 remain valid and negotiable for one hundred and eighty (180) days after the date of issuance. If
24 an Individual Settlement Payment and/or Individual PAGA Payment check is returned as
25 undeliverable within ninety (90) calendar days, then, within five (5) days of receipt of the
26 undeliverable check, the Settlement Administrator shall undertake a skip-trace search for an
27 alternate mailing address and re-mail the undeliverable check to an alternate mailing address (if
28 one is located), under a cover letter or post card indicating that the undeliverable check will

1 continue to be valid and negotiable for ninety (90) calendar days after the date of re-mailing. In
2 the event that any checks mailed to Participating Class Members and Aggrieved Employees are
3 not cashed, deposited, or otherwise negotiated within the 180-day period, then the checks shall be
4 cancelled by the Settlement Administrator, and the funds associated with such cancelled checks
5 shall be transmitted by the Settlement Administrator pursuant to governing law to the California
6 State Controller's Office Unclaimed Property Division to be held there for the benefit of such
7 Participating Class Members and/or Aggrieved Employees under California's escheatment laws,
8 and such Participating Class Members and/or Aggrieved Employees shall nevertheless be bound
9 to the Settlement and the Final Approval Order and Judgment. The Parties agree this disposition
10 results in no "unpaid residue" under California Code of Civil Procedure § 384(b), as the entire
11 NSF shall be paid to Participating Class Members and/or Aggrieved Employees, whether or not
12 their Individual Settlement Payment and/or Individual PAGA Payment checks are cashed.

13 34. Class Settlement Release: Upon occurrence of the Effective Date and full funding
14 of the Gross Settlement Fund, Plaintiff and the Participating Class Members will release Defendant
15 and each of its respective past, present and future affiliates, parent companies, subsidiaries,
16 shareholders, officers, partners, directors, members, owners, servants, employees, employers,
17 agents, contractors, attorneys, insurers, predecessors, representatives, accountants, executors,
18 successors, and assigns, and each and all of their respective shareholders, officers, partners,
19 directors, members, owners, servants, employees, employers, agents, contractors, attorneys,
20 insurers, predecessors, representatives, accountants, executors, successors, and assigns, and past,
21 present and future pension, profit sharing, retirement savings, health and welfare, and any other
22 employee benefit plans of any nature and the respective trustees, administrators, sponsors,
23 fiduciaries, successors, agents, and employees of all such plans, and all persons acting under, by,
24 through, or in concert with any of them (collectively, the "**Released Parties**"), of and from any and
25 all allegations, claims, debts, rights, demands, charges, complaints, actions, causes of action,
26 guarantees, costs, expenses, attorneys' fees, economic damages, non-economic damages, restitution,
27 civil penalties, statutory penalties, liquidated damages, punitive damages, interest, obligations,
28 liabilities, or other monies and remedies, of any and every kind, contingent or accrued, that have

1 been or reasonably could have been alleged or asserted in any of the pleadings filed in the Action
2 based on the factual and/or legal violations alleged therein, including the Operative Complaint,
3 arising during the period from July 10, 2015 through the date the Court enters the Final Approval
4 Order and Judgment, including, without limitation, for failure to pay minimum, overtime or other
5 wages, failure to provide and/or record meal periods and/or pay associated premiums, failure to
6 authorize and permit rest periods and/or pay associated premiums, failure to timely pay wages during
7 employment, failure to timely pay wages upon termination of employment, failure to provide
8 accurate itemized wage statements, failure to keep and maintain accurate timekeeping and/or payroll
9 records, failure to reimburse employment-related or business expenses, failure to provide one day's
10 rest in a seven-day workweek, violation of the California Unfair Competition Law (California
11 Business and Professions Code §§ 17200 *et seq.*), and/or violation of the federal Fair Labor
12 Standards Act ("FLSA"), based in whole or in part on any direct or imputed violation of any federal,
13 state, local or administrative constitution, charter, law, rule, regulation or ordinance (collectively,
14 **"Released Class Claims"**). To the extent required under applicable law, Participating Class
15 Members who cash, deposit, or otherwise negotiate their Individual Settlement Payment will be
16 deemed to have opted-in to the Action for purposes of the release of Released Class Claims arising
17 under the FLSA.

18 35. PAGA Settlement Release: Upon occurrence of the Effective Date and full funding
19 of the Gross Settlement Fund, the LWDA and the Aggrieved Employees will release the Released
20 Parties of and from any and all allegations, claims, debts, rights, demands, charges, complaints,
21 actions, and causes of action for civil penalties of any and every kind, contingent or accrued, that
22 have been or reasonably could have been alleged or asserted in any of the pleadings filed in the
23 Action and in any notice sent to the LWDA pursuant to PAGA based on the factual and/or legal
24 violations allegations contained therein, including the Operative Complaint and the LWDA Notice
25 that was submitted to the LWDA on December 28, 2021 pursuant to this Settlement, arising during
26 the period from July 10, 2018 through the date the Court enters the Final Approval Order and
27 Judgment, including, without limitation, for failure to pay minimum, overtime or other wages, failure
28 to provide and/or record meal periods and/or pay associated premiums, failure to authorize and

1 permit rest periods and/or pay associated premiums, failure to timely pay wages during employment,
2 failure to timely pay wages upon termination of employment, failure to provide accurate itemized
3 wage statements, failure to keep and maintain accurate timekeeping and/or payroll records, failure
4 to reimburse employment-related or business expenses, failure to provide one day's rest in a seven-
5 day workweek (collectively, "**Released PAGA Claims**").

6 36. Additional Release by Plaintiff: In addition to the releases set forth in Paragraphs
7 34 and 35, upon occurrence of the Effective Date and full funding of the Gross Settlement Fund,
8 Plaintiff, for himself alone as an individual, releases the Released Parties of and from any and all
9 claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees,
10 damages, actions or causes of action of every kind or nature, contingent or accrued, which do or may
11 exist as of the date of the execution of this Settlement Agreement and through and including the date
12 the Court enters the Final Approval Order and Judgment. In connection therewith, Plaintiff waives
13 the provisions of California Civil Code Section 1542, which states:

14 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
15 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
16 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
17 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
18 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
19 **DEBTOR OR RELEASED PARTY.**

20 37. Injunction Barring Pursuit of Released Claims: As part of the final approval of this
21 Settlement, Plaintiff, Participating Class Members, Aggrieved Employees, and the LWDA shall be
22 enjoined from filing, initiating, or continuing to prosecute any actions, claims, complaints, or
23 proceedings in court, arbitration, with the California Division of Labor Standards Enforcement
24 ("**DLSE**"), with the LWDA, or with any other entity, with respect to the claims released as described
25 in Paragraphs 34, 35 and 36, above. This settlement is conditioned upon the release by Participating
26 Class Members, Plaintiff, Aggrieved Employees, and the LWDA as described in Paragraphs 34, 35
27 and 36, above, and upon covenants by Plaintiff and Participating Class Members, and on behalf of
28 Aggrieved Employees and the LWDA, that they will not commence, proceed with and/or participate

1 in any actions, lawsuits, proceedings, complaints, or charges brought individually, by the DLSE, the
2 LWDA, or by any other agency, persons or entity in any court, arbitration or before any
3 administrative body with respect to the claims released as described in Paragraphs 34, 35 and 36,
4 above, nor will such Participating Class Members, Plaintiff, Aggrieved Employees, or the LWDA
5 contest or interfere with efforts by Defendant or by any other Released Parties to oppose any attempt
6 to bring such released claims against any of them. Additionally, it is agreed herein that neither
7 injunctive or declaratory relief, nor any equitable relief beyond what could be characterized as
8 restitution of claimed unpaid wages required to be paid pursuant to this Settlement Agreement, will
9 be ordered by the Court against Defendant in final approval of this Settlement, which will otherwise
10 be grounds for Defendant rescinding and terminating this Settlement Agreement.

11 38. Duties of the Parties Prior to Preliminary Approval: The Parties shall promptly
12 seek the Court's approval of this Settlement. Class Counsel will prepare Plaintiff's motion for
13 preliminary approval. Not later than five (5) court days prior to the submission of the motion for
14 preliminary approval of this Settlement Agreement to the Court, Class Counsel will submit a near-
15 final draft thereof (including all supporting papers and proposed order) to counsel for Defendant for
16 their review and comment. As soon as practicable after execution of this Settlement Agreement, the
17 Class Representative and Class Counsel shall apply to the Court for the entry of a preliminary
18 approval order which would accomplish the following:

19 a. Provide that Plaintiff has conditional leave to file the SAC on the terms set
20 forth in this Agreement;

21 b. Scheduling a hearing ("**Final Approval Hearing**") on the question of
22 whether the Settlement, including, *inter alia*, the payment of Attorneys' Fees and Costs,
23 Enhancement Award, and PAGA Amount should be finally approved as fair, reasonable, and
24 adequate, and finally resolving any outstanding issues or disputes remaining from the administration
25 of the notice of the Settlement;

26 c. Conditionally certify the Class for purposes of the Settlement only;

27 d. Approving, as to form and content, the proposed Notice;

28 e. Direct the mailing of the Notice by first class mail to the Class Members;

1 f. Preliminarily approve the Settlement and monetary allocations for
2 awards/payments of Attorneys' Fees and Costs, Settlement Administration Costs, Enhancement
3 Award, and PAGA Amount, subject to the final review and approval by the Court;

4 g. Preliminarily approve Simpluris, Inc. as the Settlement Administrator;

5 h. Preliminarily approve and appoint Plaintiff as representative of the Class;

6 i. Preliminarily approve and appoint Class Counsel as counsel for the Class;

7 and

8 j. Approving the deadlines and procedures for opting out of the Class
9 Settlement, objecting to the Class Settlement, and submitting Workweeks Disputes.

10 39. Submissions to LWDA: Class Counsel shall be responsible for ensuring that all
11 required submittals and notifications to the LWDA under PAGA regarding this Settlement are made
12 by Plaintiff.

13 40. Duties of the Parties in Connection with Final Approval: Class Counsel will
14 prepare Plaintiff's motion for final approval. Not later than five (5) calendar days prior to the
15 submission of the motion seeking final approval, Class Counsel will submit a near-final draft thereof
16 (including all supporting papers and proposed order) to counsel for Defendant for their review and
17 comment. In conjunction with the request for final approval of the Settlement provided for in this
18 Settlement Agreement, Class Counsel will submit a proposed Final Approval Order and Judgment
19 that provides for the following:

20 a. Granting final approval of the Settlement, adjudging the terms thereof to be
21 fair, reasonable, and adequate, and directing consummation of its terms and provisions;

22 b. Approving and awarding Attorneys' Fees and Costs to Class Counsel;

23 c. Approving and awarding the Enhancement Award to the Class
24 Representative;

25 d. Approving and awarding all payments specified in this Settlement
26 Agreement to the LWDA, Aggrieved Employees, and Participating Class Members;

27 e. Permanently enjoining and restraining Plaintiff, Participating Class
28 Members, Aggrieved Employees, and the LWDA from and against initiating or pursuing any claims

1 settled herein and released by this Settlement Agreement; and

2 f. Entering judgment in accordance with the terms of this Settlement
3 Agreement, including without limitation the permanent injunction provisions.

4 41. Parties' Authority: The signatories hereto hereby represent that they are fully
5 authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and
6 conditions hereof.

7 42. Mutual and Full Cooperation: The Parties agree to fully cooperate with each other
8 to accomplish the terms of this Settlement Agreement, including but not limited to execution of such
9 documents and to take such other actions as may reasonably be necessary to implement the terms of
10 this Settlement Agreement. The Parties shall use their reasonable best efforts, including all efforts
11 contemplated by this Settlement Agreement and any other efforts that may become necessary by
12 order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth
13 herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall,
14 with the assistance and cooperation of Defendant and their counsel, take all necessary steps to secure
15 the Court's preliminary approval and final approval of this Settlement Agreement.

16 43. No Prior Assignments: The Parties hereto represent, covenant, and warrant that
17 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
18 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
19 cause of action, or rights herein released and discharged except as set forth herein.

20 44. Notices: All notices, demands, and other communications to be provided
21 concerning this Settlement Agreement shall be in writing and delivered by overnight mail at the
22 addresses set forth below, or such other addresses as either Party may designate in writing from
23 time to time:

24 To Plaintiff and Class Counsel:

25 Edwin Aiwazian, Esq.
26 **LAWYERS for JUSTICE, PC**
27 410 West Arden Avenue, Suite 203
28 Glendale, California 91203

To Defendant:

Matthew C. Kane, Esq.
Sylvia J. Kim
Amy E. Beverlin, Esq.
BAKER & HOSTETLER LLP
11601 Wilshire Boulevard, Suite 1400
Los Angeles, California 90025

1 45. Construction: The Parties hereto agree that the terms and conditions of this
2 Settlement Agreement are the result of lengthy, intensive, arms-length mediated negotiations
3 between the Parties, conducted under the auspices of mediator Lynn Frank, a highly respected and
4 experienced class action mediator. The Parties further agree that they have each had a full
5 opportunity to negotiate the terms and conditions of this Agreement. Accordingly, the Parties
6 expressly waive the common-law and statutory rule of construction that ambiguities should be
7 construed against the drafter of an agreement, and agree, covenant, and represent that the language
8 in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning

9 46. Captions and Interpretations: Paragraph titles or captions contained herein are
10 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe
11 the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement
12 Agreement is contractual and not merely a recital.

13 47. Modification: Prior to the filing of the motion for preliminary approval of the
14 Settlement, this Settlement Agreement may not be changed, altered, or modified, except in writing
15 and signed by the Parties hereto or their counsel. After the filing of the motion for preliminary
16 approval of the Settlement, this Settlement Agreement may not be changed, altered, or modified,
17 except in writing and signed by the Parties hereto or their counsel, and approved by the Court.

18 48. Integration: This Settlement Agreement contains the entire agreement between the
19 Parties relating to the settlement and the transaction contemplated hereby, and all prior or
20 contemporaneous agreements, understandings, representations, and statements, whether oral or
21 written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder
22 may be waived except in writing and subject to any required approval by the Court.

23 49. Binding on Assigns: This Settlement Agreement shall be binding upon and inure
24 to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
25 successors, and assigns.

26 50. Signatories: It is agreed that because of the large number of Class Members, it is
27 impossible or impractical to have each Class Member execute this Settlement Agreement. As such,
28 Plaintiff is signing on behalf of the Class Members. In addition, the Notice will advise all Class

1 Members that Participating Class Members will be bound to the release of Released Class Claims
2 under the Settlement and that Aggrieved Employees will be bound to the release of Released PAGA
3 Claims under the Settlement, and that such shall have the same force and effect as if this Settlement
4 Agreement were executed by each Participating Class Member and/or Aggrieved Employee.

5 51. Confidentiality: Plaintiff and Class Counsel will maintain the proposed settlement
6 and this Settlement Agreement as confidential and not publicly disclose the same except as otherwise
7 set forth in this Agreement and in Paragraph 53, below. Except as set forth in Paragraph 53, below,
8 or as otherwise agreed in writing between the Parties, both before and following the execution of
9 this Settlement Agreement by the Parties and their counsel, there will be no direct or indirect
10 comment or publication by Plaintiff and Class Counsel (lead or otherwise) of the Settlement in terms
11 of affirmative or responsive media statements/comments, press releases or conferences, website
12 postings or content, social media postings or content, other Internet postings or content, subscribed
13 email messages, newsletters, disseminated updates, mass mailings, or any other comment or
14 publication to the press, media or public at large. This shall not apply to or limit the public filing of
15 motions or other case materials by Class Counsel in the Action related to seeking and obtaining
16 Court approval of the proposed Settlement and the related awards of Attorneys' Fees and Costs,
17 Enhancement Award and the other relief set forth in this Settlement Agreement, or to
18 communications between Class Counsel, Plaintiff, and/or Class Members in the Action, except that
19 prior to the filing of the motion for preliminary approval of the Settlement in the Action, Class
20 Counsel shall not discuss the Settlement with Class Members other than the named Plaintiff (Class
21 Counsel may state only that the Action has been settled on terms mutually agreeable to the Parties).
22 The Parties understand and agree that there may be media coverage of the settlement of the Action
23 not initiated by Plaintiff, directly or indirectly. It is also agreed and understood that the Parties may
24 disclose the Settlement to their families, plus their legal, tax, or accounting advisors, insurance
25 companies, or as required by law, regulatory rules or regulatory requirements. Furthermore, Plaintiff
26 and Class Counsel will undertake any and all disclosures required to be made to the LWDA in
27 conformity with PAGA.

28 ///

1 52. No Restriction on Discussion or Disclosure Regarding Specified Acts and
2 Circumstances in Workplace: Nothing in this Agreement is intended to prevent or restrict Plaintiff
3 or Class Members' discussion or disclosure of factual information regarding sexual assault, sexual
4 harassment, harassment, discrimination, unlawful acts in the workplace (e.g., harassment or
5 discrimination or any other conduct for which there is reason to believe said conduct is unlawful),
6 failure to prevent an act of workplace harassment or discrimination, and/or an act of retaliation
7 against a person for reporting or opposing harassment or discrimination.

8 53. Website: The Parties agree that the Settlement Administrator may use U.S. Mail
9 and an information-only website ("**Settlement Website**") to provide notice and information about
10 the Settlement to Class Members. The Settlement Website is to be established by the Settlement
11 Administrator solely for purposes of the administration of the Settlement, and the domain name used
12 for the website will be subject to Class Counsel and Defendant's reasonable approval. Not later than
13 the date that the Settlement Administrator must remit any funds associated with cancelled Individual
14 Settlement Payment and/or Individual PAGA Payment checks, as set forth in Paragraph 33, the
15 Settlement Website will be taken down. No information about the Action or the Settlement may be
16 posted on any of Class Counsel's websites except as expressly set forth herein without Defendant's
17 prior written consent. Defendant consents to Class Counsel posting the following statement on its
18 website: "LFJ obtained a settlement of \$4.1 million in the manufacturing industry." Defendant also
19 consents to Class Counsel listing the case name, number, and a short description of the claims in
20 declarations filed in court listing their prior cases to provide their qualifications to be appointed as
21 class counsel. Nothing herein will restrict Class Counsel from including publicly available
22 information regarding this Settlement in future judicial submissions regarding Class Counsel's
23 qualifications and experience.

24 54. Counterparts: This Settlement Agreement may be executed in counterparts, and
25 when each Party has signed and delivered at least one such counterpart, each counterpart shall be
26 deemed an original, and, when taken together with other signed counterparts, including facsimile,
27 electronic, and scanned copies of the signature page, shall constitute one Settlement Agreement,
28 which shall be binding upon and effective as to all Parties.

1 55. Governing Law: The Parties agree that California law governs the interpretation
2 and application of this Settlement Agreement, except to the extent governed by federal law in which
3 case federal law will apply.

4 56. Interim Stay of Proceedings: The Parties agree to hold in abeyance all proceedings
5 in the Action (including with respect to California Code of Civil Procedure section 583.310), except
6 such proceedings necessary to implement and complete the Settlement, pending the Final Approval
7 Hearing to be conducted by the Court.

8 57. Each Party to Bear Own Costs. Except as specifically provided herein, the Parties
9 hereto will bear responsibility for their own attorneys' fees and costs, taxable or otherwise, incurred
10 by them or arising out of or related to this Action, and will not seek reimbursement thereof from any
11 Party to this Agreement.

12 58. Non-Evidentiary Use. Neither the fact of this Agreement, the existence of this
13 Agreement, the terms of this Agreement, nor any order or action pursuant thereto may be referred
14 to, relied upon, cited, or used as evidence by any of the Parties, Class Members, or their respective
15 counsel in the Action or in any other action or proceeding; provided, however, that nothing contained
16 in this section shall prevent this Agreement from being used, offered, or received in evidence in any
17 proceeding to enforce, construe, or finalize this Agreement.

18 59. Advice of Counsel. The Parties to this Agreement are represented by competent
19 counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement
20 agree that it reflects their good faith compromise of the claims raised in the Action, based upon their
21 assessment of the mutual risks and costs of further litigation and the assessments of their respective
22 counsel.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 EACH OF THE UNDERSIGNED ACKNOWLEDGE THAT EACH HAS READ THE
2 FOREGOING AGREEMENT AND ACCEPTS AND AGREES TO THE PROVISIONS
3 CONTAINED THEREIN, AND HEREBY EXECUTES IT VOLUNTARILY WITH FULL
4 KNOWLEDGE OF ITS CONSEQUENCES.

6 **IT IS SO STIPULATED AND AGREED:**

7
8 DATED: 11/12/2022, 2022

Electronically Signed 2022-11-12 15:52:29 UTC - 174.208.37.224
Hintex AssureSign® 8eaa3972-23e4-4dce-9ca0-af490120fe80

ANDRES CASAS
Plaintiff and Proposed Class Representative

10 DATED: _____, 2022

MYERS POWER PRODUCTS, INC.

By: _____

Name: _____

Title: _____

15 **AGREED AND APPROVED AS TO FORM AND CONTENT:**

17 DATED: November 15, 2022

LAWYERS for JUSTICE, PC

By: _____

Edwin Aiwarzian, Esq.
Arby Aiwarzian, Esq.
Joanna Ghosh, Esq.

Attorneys for Plaintiff ANDRES CASAS

23 DATED: _____, 2022

BAKER & HOSTETLER LLP

By: _____

Matthew C. Kane, Esq.
Sylvia J. Kim, Esq.
Amy E. Beverlin, Esq.

*Attorneys for Defendant MYERS POWER
PRODUCTS, INC.*

1 EACH OF THE UNDERSIGNED ACKNOWLEDGE THAT EACH HAS READ THE
2 FOREGOING AGREEMENT AND ACCEPTS AND AGREES TO THE PROVISIONS
3 CONTAINED THEREIN, AND HEREBY EXECUTES IT VOLUNTARILY WITH FULL
4 KNOWLEDGE OF ITS CONSEQUENCES.

5
6 IT IS SO STIPULATED AND AGREED:

7
8 DATED: _____, 2022

ANDRES CASAS
Plaintiff and Proposed Class Representative

9
10 DATED: November 15, 2022

MYERS POWER PRODUCTS, INC.

11 By: 

12 Name: DIANA GROOTENK

13 Title: BOARD MEMBER

14
15 AGREED AND APPROVED AS TO FORM AND CONTENT:

16
17 DATED: _____, 2022

LAWYERS for JUSTICE, PC

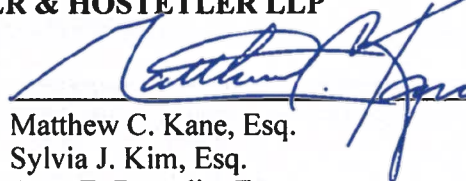
18 By: _____

19 Edwin Aiwazian, Esq.
20 Arby Aiwazian, Esq.
Joanna Ghosh, Esq.

21 *Attorneys for Plaintiff* ANDRES CASAS

22
23 DATED: November 15, 2022

BAKER & HOSTETLER LLP

24 By: 

25 Matthew C. Kane, Esq.
26 Sylvia J. Kim, Esq.
Amy E. Beverlin, Esq.

27 *Attorneys for Defendant* MYERS POWER
28 PRODUCTS, INC.

Edwin Aiwazian (SBN 232943)
Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ANDRES CASAS, individually, and on
behalf of other members of the general
public similarly situated and on behalf of
other aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

MYERS POWER PRODUCTS, INC., an
unknown business entity; and DOES 1
through 100, inclusive,

Defendants.

Case No.: CIVDS1920109

Honorable David Cohn
Department S26

**[PROPOSED] SECOND AMENDED
CLASS ACTION COMPLAINT FOR
DAMAGES & ENFORCEMENT UNDER
THE PRIVATE ATTORNEYS GENERAL
ACT, CALIFORNIA LABOR CODE §
2698, ET SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment)
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed

Business Expenses);
(10) Violation of California Business &
Professions Code §§ 17200, et seq.
(11) Violation of California Labor Code
§ 2698, et seq. (Private Attorneys
General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff ANDRES CASAS (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act (“PAGA”), and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The “amount in controversy” for the named Plaintiff, including but not limited to claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys’ fees, is less than seventy-five thousand dollars (\$75,000).

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

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///

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of San Bernardino. The majority of acts and omissions alleged herein relating to Plaintiff and the other class members took place in the State of California, including the County of San Bernardino. At all relevant times, Defendant maintained its headquarters/“nerve center” within the State of California, County of San Bernardino.

PARTIES

5. Plaintiff ANDRES CASAS is an individual residing in the State of California, County of San Bernardino.

6. Defendant MYERS POWER PRODUCTS, INC., at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of San Bernardino.

7. At all relevant times, Defendant MYERS POWER PRODUCTS, INC. was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

8. At all times herein relevant, Defendants MYERS POWER PRODUCTS, INC. and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

9. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sue said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint.

1 Plaintiff will seek leave of court to amend this Complaint to show the true names and
2 capacities when the same have been ascertained.

3 10. Defendant MYERS POWER PRODUCTS, INC. and DOES 1 through 100 will
4 hereinafter collectively be referred to as “Defendants.”

5 11. Plaintiff further alleges that Defendants directly or indirectly controlled or
6 affected the working conditions, wages, working hours, and conditions of employment of
7 Plaintiff and the other class members so as to make each of said Defendants employers liable
8 under the statutory provisions set forth herein.

9 **CLASS ACTION ALLEGATIONS**

10 12. Plaintiff bring this action on his own behalf and on behalf of all other members
11 of the general public similarly situated, and, thus, seeks class certification under California
12 Code of Civil Procedure section 382.

13 13. The proposed class is defined as follows:

14 All current and former hourly-paid or non-exempt employees who worked for
15 any of the Defendants within the State of California at any time during the
16 period from July 10, 2015 to final judgment and who reside in California.

17 14. Plaintiff reserves the right to establish subclasses as appropriate.

18 15. The class is ascertainable and there is a well-defined community of interest in
19 the litigation:

- 20 a. Numerosity: The class members are so numerous that joinder of all class
21 members is impracticable. The membership of the entire class is
22 unknown to Plaintiff at this time; however, the class is estimated to be
23 greater than fifty (50) individuals and the identity of such membership is
24 readily ascertainable by inspection of Defendants’ employment records.
- 25 b. Typicality: Plaintiff’s claims are typical of all other class members’ as
26 demonstrated herein. Plaintiff will fairly and adequately protect the
27 interests of the other class members with whom he has a well-defined
28 community of interest.

- 1 c. Adequacy: Plaintiff will fairly and adequately protect the interests of
2 each class member, with whom he has a well-defined community of
3 interest and typicality of claims, as demonstrated herein. Plaintiff has no
4 interest that is antagonistic to the other class members. Plaintiff's
5 attorneys, the proposed class counsel, are versed in the rules governing
6 class action discovery, certification, and settlement. Plaintiff has
7 incurred, and during the pendency of this action will continue to incur,
8 costs and attorneys' fees, that have been, are, and will be necessarily
9 expended for the prosecution of this action for the substantial benefit of
10 each class member.
- 11 d. Superiority: A class action is superior to other available methods for the
12 fair and efficient adjudication of this litigation because individual joinder
13 of all class members is impractical.
- 14 e. Public Policy Considerations: Certification of this lawsuit as a class
15 action will advance public policy objectives. Employers of this great
16 state violate employment and labor laws every day. Current employees
17 are often afraid to assert their rights out of fear of direct or indirect
18 retaliation. However, class actions provide the class members who are
19 not named in the complaint anonymity that allows for the vindication of
20 their rights.

21 16. There are common questions of law and fact as to the class members that
22 predominate over questions affecting only individual members. The following common
23 questions of law or fact, among others, exist as to the members of the class:

- 24 a. Whether Defendants' failure to pay wages, without abatement or
25 reduction, in accordance with the California Labor Code, was willful;
- 26 b. Whether Defendants' had a corporate policy and practice of failing to
27 pay their hourly-paid or non-exempt employees within the State of
28 California for all hours worked and missed (short, late, interrupted,

and/or missed altogether) meal periods and rest breaks in violation of California law;

- c. Whether Defendants required Plaintiff and the other class members to work over eight (8) hours per day, over forty (40) hours per week, and/or over six (6) consecutive days per workweek and failed to pay the legally required overtime compensation to Plaintiff and the other class members;
- d. Whether Defendants engaged in an improper rounding policy during the relevant time period;
- e. Whether Defendants engaged in an improper practice of deducting time for meal periods and/or failed to properly record meal periods;
- f. Whether Defendants failed to use shift differentials/earned commissions/non-discretionary bonuses/non-discretionary monetary and non-monetary incentives/non-discretionary production and/or performance pay to calculate the regular rate of pay used to calculate overtime rates for the payment of overtime wages where Plaintiff and the other class members earned shift differentials/earned commissions/non-discretionary bonuses/non-discretionary monetary and non-monetary incentives/non-discretionary production and/or performance pay and overtime wages in the same workweek;
- g. Whether Defendants deprived Plaintiff and the other class members of meal and/or rest periods or required Plaintiff and the other class members to work during meal and/or rest periods without compensation;
- h. Whether Defendants failed to pay minimum wages to Plaintiff and the other class members for all hours worked;
- i. Whether Defendants failed to pay all wages due to Plaintiff and the other class members within the required time upon their discharge or resignation;
- j. Whether Defendants failed to timely pay all wages due to Plaintiff and

the other class members during their employment;

- k. Whether Defendants complied with wage reporting as required by the California Labor Code; including, *inter alia*, section 226;
- l. Whether Defendants kept complete and accurate payroll records as required by the California Labor Code, including, *inter alia*, section 1174(d);
- m. Whether Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs, including and not limited to, whether Defendants failed to provide and/or reimburse business expenses, including without limitation the cost of tools, toolboxes, personal protective equipment, uniforms, steel-toed boots, and/or use of personal cell phones and/or vehicles required for work or pay double-minimum wage per IWC Wage Orders (including, *inter alia*, Wage Order Nos. 1-2001 § 9(b), 4-2001 § 9(b), and 7-2001 § 9(b));
- n. Whether Defendants' conduct was willful or reckless;
- o. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- p. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- q. Whether Plaintiff and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

PAGA ALLEGATIONS

17. At all times herein set forth, PAGA was applicable to Plaintiff's employment by Defendants.

18. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code

1 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
2 on behalf of himself and other current or former employees pursuant to procedures outlined in
3 California Labor Code section 2699.3.

4 19. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved
5 employee,” who is any person that was employed by Defendants and the alleged violator and
6 against whom one or more of the alleged violations was committed.

7 20. Plaintiff was employed by Defendants and the alleged violations were
8 committed against him during his time of employment and he is, therefore, an aggrieved
9 employee. Plaintiff and the other employees are “aggrieved employees” as defined by
10 California Labor Code section 2699(c) in that they are current or former employees of
11 Defendants, and one or more of the alleged violations were committed against them.

12 21. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
13 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
14 following requirements have been met:

- 15 a. The aggrieved employee shall give written notice by certified mail
16 (hereinafter “Employee's Notice”) to the LWDA and the employer of the
17 specific provisions of the California Labor Code alleged to have been
18 violated, including the facts and theories to support the alleged
19 violations.
- 20 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
21 employer and the aggrieved employer by certified mail that it does not
22 intend to investigate the alleged violation within sixty (60) calendar days
23 of the postmark date of the Employee’s Notice. Upon receipt of the
24 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
25 (65) calendar days of the postmark date of the Employee’s Notice, the
26 aggrieved employee may commence a civil action pursuant to California
27 Labor Code section 2699 to recover civil penalties in addition to any
28 other penalties to which the employee may be entitled.

22. On December 28, 2021, Plaintiff provided written notice by online submission to the LWDA and by certified mail to Defendant MYERS POWER PRODUCTS, INC. of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

23. Plaintiff did not receive a response from the LWDA within sixty-five (65) days of the date of the submissions of Plaintiff's notice.

24. Therefore, the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and Industrial Welfare Commission Wage Orders, including, *inter alia*, Wage Order Nos. 1-2001, 4-2001 and 7-2001, have been satisfied.

GENERAL ALLEGATIONS

25. At all relevant times set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California, including the County of San Bernardino.

26. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-exempt employee in the position of "Machine Operator" and "Production Supervisor", from approximately February 2017 to approximately February 2018, in the State of California, County of San Bernardino. As a Production Supervisor, Plaintiff's job duties included, but were not limited to, operating machinery, maintaining quality-control, and maintaining production.

27. Defendants hired Plaintiff and the other class members, classified them as hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and short, late, interrupted, and/or missed meal periods and/or rest breaks.

28. Defendants had the authority to hire and terminate Plaintiff and the other class members, to set work rules and conditions governing Plaintiff's and the other class members' employment, and to supervise their daily employment activities.

29. Defendants exercised sufficient authority over the terms and conditions of Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff and the other class members.

30. Defendants directly hired and paid wages and benefits to Plaintiff and the other class members.

31. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

32. Plaintiff and the other class members worked over eight (8) hours in a day, forty (40) hours in a week, and/or over six (6) consecutive days in a workweek during their employment with Defendants.

33. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt employees within the State of California. This pattern and practice involved, *inter alia*, failing to pay them for all regular and/or overtime wages earned and for short, late, interrupted, and/or missed meal periods and rest breaks in violation of California law.

34. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive certain wages for overtime compensation and that they were not receiving accurate overtime compensation for all overtime hours worked. Defendants' failure includes, *inter alia*, failing to compensate Plaintiff and the other class members for job duties performed off-the-clock, including, but not limited to, gathering necessary tools, engaging in scheduling discussions, donning and doffing uniforms and/or protective gear, completing time-sensitive demands, reviewing and completing documentation, operating machinery, engaging in meetings between supervisors and employees, completing assigned tasks, engaging in improper rounding of time, and engaging in improper automatic deduction of time for meal periods and/or not properly recording meal periods.

35. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to use shift differentials/earned commissions/non-discretionary bonuses/non-

1 discretionary monetary and non-monetary incentives/non-discretionary production and/or
2 performance pay/shift differentials to calculate the regular rate of pay used to calculate
3 overtime rates for the payment of overtime wages where Plaintiff and the other class members
4 earned shift differentials/earned commissions/non-discretionary bonuses/non-discretionary
5 monetary and non-monetary incentives/non-discretionary production and/or performance pay
6 and overtime wages in the same workweek.

7 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 failed to provide Plaintiff and the other class members all required rest and meal periods during
9 the relevant time period as required under the Industrial Welfare Commission Wage Orders
10 and thus they are entitled to any and all applicable penalties. Defendants' failure included,
11 *inter alia*, failing to provide uninterrupted ten (10) minute rest periods and timely,
12 uninterrupted thirty (30) minute meal periods to Plaintiff and the other class members.
13 Plaintiff and the other class members were required to perform work during meal periods and
14 rest periods. Plaintiff and the other class members were also required to remain on premises
15 during rest periods.

16 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 failed to relieve Plaintiff and other class members of all duties, failed to relinquish control over
18 Plaintiff and the other class members' activities, failed to permit Plaintiff and the other class
19 members a reasonable opportunity to take, and impeded or discouraged them from taking thirty
20 (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work for
21 shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted meal
22 breaks no later than their tenth hour of work for shifts lasting more than ten (10) hours.

23 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 knew or should have known that Plaintiff and the other class members were entitled to receive
25 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
26 member's regular rate of pay when a meal period was short, late, interrupted, and/or missed,
27 and they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's
28 and the other class member's regular rate of pay when a meal period was short, late,

1 interrupted, and/or missed. During the relevant time period, Plaintiff's and the other class
2 members' meal periods were missed, short, late and/or interrupted because Defendants
3 required them to perform work duties, including, but not limited to completing time-sensitive
4 demands, reviewing and completing documentation, operating machinery, engaging in
5 meetings between supervisors and employees, and completing assigned tasks.

6 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
7 failed to provide, authorize, and permit Plaintiff and other class members take full,
8 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6)
9 hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten
10 (10) hours, and failed to make a good faith effort to authorize, permit, and provide such rest
11 breaks in the middle of each work period.

12 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 knew or should have known that Plaintiff and the other class members were entitled to receive
14 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
15 member's regular rate of pay when a rest period was short, late, interrupted, and/or missed, and
16 they did not receive all rest periods or payment of one additional hour of pay at Plaintiff's and
17 the other class members' regular rate of pay when a rest period was short, late, interrupted,
18 and/or missed. During the relevant time period, Plaintiff's and the other class members' rest
19 periods were missed, short, late and/or interrupted because Defendants required them to
20 perform work duties during their purported rest periods, including, but not limited to,
21 completing time-sensitive demands, reviewing and completing documentation, operating
22 machinery, engaging in meetings between supervisors and employees, and completing
23 assigned tasks.

24 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 knew or should have known that Plaintiff and the other class members were entitled to receive
26 at least minimum wages for compensation and that they were not receiving at least minimum
27 wages for all hours worked. Defendants' failure to pay minimum wages include, *inter alia*,
28 Defendants' effective payment of zero dollars per hour for all time Plaintiff and the other class

members worked off-the-clock performing work duties, and as result of Defendants' improper rounding of time and automatic deduction of time for meal periods.

42. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive all wages owed to them upon discharge or resignation, including overtime and minimum wages and meal and rest period premiums, and they did not, in fact, receive all such wages owed to them at the time of their discharge or resignation.

43. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive all wages owed to them during their employment. Plaintiff and the other class members did not receive payment of all wages, including earned, but unpaid, overtime and minimum wages and meal and rest period premiums, within any time permissible under California Labor Code section 204.

44. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive complete and accurate wage statements in accordance with California law, but, in fact, they did not receive complete and accurate wage statements from Defendants. The deficiencies included, *inter alia*, the failure to include the accurate total number of hours worked by Plaintiff and the other class members and the accurate net/gross wages earned, including work performed off-the-clock.

45. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Defendants had to keep complete and accurate payroll records for Plaintiff and the other class members in accordance with California law, but, in fact, did not keep complete and accurate payroll records reflecting the accurate hours worked and the accurate wages earned by Plaintiff and the other class members.

46. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to reimbursement for necessary business-related expenses, including but not limited to, the use of

1 personal phones and vehicles for business-related matters and the cost of purchasing and/or
2 maintaining equipment, footwear, tools, toolboxes, protective gear, and apparel to comply with
3 the dress code. Further, Defendants failed to provide and/or reimburse the tools necessary to
4 perform job duties or pay double-minimum wage as required by applicable IWC Wage Orders
5 (including, *inter alia*, Wage Orders 1-2001 § 9(b), 4-2001 § 9(b), and 7-2001 § 9(b)).

6 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants
7 knew or should have known that they had a duty to compensate Plaintiff and the other class
8 members pursuant to California law, and that Defendants had the financial ability to pay such
9 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
10 represented to Plaintiff and the other class members that they were properly denied wages, all
11 in order to increase Defendants' profits.

12 48. During the relevant time period, Defendants failed to pay overtime wages to
13 Plaintiff and the other class members for all overtime hours worked. Plaintiff and the other
14 class members did not receive overtime compensation at one-and-one-half times the regular
15 rate of pay for all hours spent performing job duties in excess of eight (8) hours per day, forty
16 (40) hours per week, and/or the first eight (8) hours worked on the seventh day of work in a
17 workweek.

18 49. During the relevant time period, Defendants failed to use shift
19 differentials/earned commissions/non-discretionary bonuses/non-discretionary monetary and
20 non-monetary incentives/non-discretionary production and/or performance pay to calculate the
21 regular rate of pay used to calculate overtime rates for the payment of overtime wages where
22 Plaintiff and the other class members earned shift differentials/earned commissions/non-
23 discretionary bonuses/non-discretionary monetary and non-monetary incentives/non-
24 discretionary production and/or performance pay and overtime wages in the same workweek.

25 50. During the relevant time period, Defendants failed to provide all requisite
26 uninterrupted meal and rest periods to Plaintiff and the other class members.

27 51. During the relevant time period, Defendants failed to pay Plaintiff and the other
28 class members at least minimum wages for all hours worked, including work performed off-

1 the-clock.

2 52. During the relevant time period, Defendants failed to pay Plaintiff and the other
3 class members all wages owed to them upon discharge or resignation, including earned and
4 unpaid overtime and minimum wages and meal and rest period premiums.

5 53. During the relevant time period, Defendants failed to pay Plaintiff and the other
6 class members all wages within any time permissible under California law, including, *inter*
7 *alia*, California Labor Code section 204, including earned and unpaid overtime and minimum
8 wages and meal and rest period premiums.

9 54. During the relevant time period, Defendants failed to provide complete or
10 accurate wage statements to Plaintiff and the other class members. The deficiencies included,
11 *inter alia*, the failure to include the accurate total number of hours worked by Plaintiff and the
12 other class members and the accurate net/gross wages earned, including work to be performed
13 off-the-clock.

14 55. During the relevant time period, Defendants failed to keep complete or accurate
15 payroll records for Plaintiff and the other class members. The deficiencies included, *inter alia*,
16 the failure to record the accurate total number of hours worked by Plaintiff and the other class
17 members and the accurate net/gross wages earned.

18 56. During the relevant time period, Defendants failed to reimburse Plaintiff and the
19 other class members for all necessary business-related expenses and costs, including, but not
20 limited to, the use of personal phones and vehicles for business-related matters and the cost of
21 purchasing and/or maintaining equipment, footwear, tools, toolboxes, protective gear, and
22 apparel to comply with the dress code. Further, Defendants failed to provide and/or reimburse
23 the tools necessary to perform job duties or pay double-minimum wage as required by applicable
24 IWC Wage Orders (including, *inter alia*, Wage Orders 1-2001 § 9(b), 4-2001 § 9(b), and 7-2001
25 § 9(b)).

26 57. During the relevant time period, Defendants failed to properly compensate
27 Plaintiff and the other class members pursuant to California law in order to increase
28 Defendants' profits.

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2 58. California Labor Code section 218 states that nothing in Article 1 of the Labor
3 Code shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty
4 due to him [or her] under this article.”

5 **FIRST CAUSE OF ACTION**

6 **(Violation of California Labor Code §§ 510 and 1198)**

7 **(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)**

8 59. Plaintiff incorporates by reference the allegations contained in Paragraphs 1
9 through 58 and each and every part thereof with the same force and effect as though fully set
10 forth herein.

11 60. California Labor Code section 1198 and the applicable Industrial Welfare
12 Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without
13 compensating them at a rate of pay either time-and-one-half or two-times that person’s regular
14 rate of pay, depending on the number of hours worked by the person on a daily or weekly
15 basis.

16 61. Specifically, the applicable IWC Wage Order provides that Defendants are and
17 were required to pay Plaintiff and the other class members employed by Defendants, and
18 working more than eight (8) hours in a day, more than forty (40) hours in a week, and/or more
19 than six (6) consecutive days in a workweek at the rate of time-and-one-half for all hours
20 worked in excess of eight (8) hours in a day and up to and including twelve (12) hours, more
21 than forty (40) hours in a week, or the first eight (8) hours worked on the seventh day in a
22 workweek.

23 62. The applicable IWC Wage Order further provides that Defendants are and were
24 required to pay Plaintiff and the other class members overtime compensation at a rate of two
25 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

26 63. California Labor Code section 510 codifies the right to overtime compensation
27 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
28 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day

1 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
2 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
3 of work.

4 64. During the relevant time period, Plaintiff and the other class members worked in
5 excess of eight (8) hours in a day, and/or in excess of forty (40) hours, and/or in excess of six
6 (6) consecutive days in a week including performing work duties off-the-clock including, but
7 not limited to gathering necessary tools, engaging in scheduling discussions, donning and
8 doffing uniforms and/or protective gear, completing time-sensitive demands, reviewing and
9 completing documentation, operating machinery, engaging in meetings between supervisors
10 and employees, and completing assigned tasks.

11 65. During the relevant time period, Defendants intentionally and willfully failed to
12 pay overtime wages owed to Plaintiff and the other class members. Plaintiff and other class
13 members did not receive overtime compensation at one-and-one-half times the regular hourly
14 rate for all hours spent performing job duties in excess of eight (8) hours in a day or forty (40)
15 hours in a week or for the first eight (8) hours worked on the seventh day.

16 66. Defendants' failure to pay Plaintiff and the other class members the unpaid
17 balance of overtime compensation, as required by California laws, violates the provisions of
18 California Labor Code sections 510 and 1198, and is therefore unlawful.

19 67. Pursuant to California Labor Code section 1194, Plaintiff and the other class
20 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
21 attorneys' fees.

22 **SECOND CAUSE OF ACTION**

23 **(Violation of California Labor Code §§ 226.7 and 512(a))**

24 **(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)**

25 68. Plaintiff incorporates by reference the allegations contained in paragraphs 1
26 through 67, and each and every part thereof with the same force and effect as though fully set
27 forth herein.

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2 69. At all relevant times, the IWC Order and California Labor Code sections 226.7
3 and 512(a) were applicable to Plaintiff's and the other class members' employment by
4 Defendants.

5 70. At all relevant times, California Labor Code section 226.7 provides that no
6 employer shall require an employee to work during any meal or rest period mandated by an
7 applicable order of the California IWC.

8 71. At all relevant times, the applicable IWC Wage Order and California Labor
9 Code section 512(a) provide that an employer may not require, cause or permit an employee to
10 work for a work period of more than five (5) hours per day without providing the employee
11 with a meal period of not less than thirty (30) minutes, except that if the total work period per
12 day of the employee is no more than six (6) hours, the meal period may be waived by mutual
13 consent of both the employer and employee.

14 72. At all relevant times, the applicable IWC Wage Order and California Labor
15 Code section 512(a) further provide that an employer may not require, cause or permit an
16 employee to work for a work period of more than ten (10) hours per day without providing the
17 employee with a second uninterrupted meal period of not less than thirty (30) minutes, except
18 that if the total hours worked is no more than twelve (12) hours, the second meal period may
19 be waived by mutual consent of the employer and the employee only if the first meal period
20 was not waived.

21 73. During the relevant time period, Plaintiff and the other class members who were
22 scheduled to work for a period of time no longer than six (6) hours, and who did not waive
23 their legally-mandated meal periods by mutual consent, were required to work for periods
24 longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
25 minutes and/or rest period.

26 74. During the relevant time period, Plaintiff and the other class members who were
27 scheduled to work for a period of time in excess of six (6) hours were required to work for
28 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty

1 (30) minutes and/or rest period.

2 75. During the relevant time period, Plaintiff and the other class members' meal
3 periods were missed, shortened, late, and/or interrupted because Defendants required them to
4 perform work duties off-the-clock including, but not limited to gathering necessary tools,
5 engaging in scheduling discussions, donning and doffing uniforms and/or protective gear,
6 completing time-sensitive demands, reviewing and completing documentation, operating
7 machinery, engaging in meetings between supervisors and employees, and completing
8 assigned tasks. Defendants also utilized a bell system to relieve Plaintiff and the other class
9 members of their duties and automatically deducted meal periods from Plaintiff's and the other
10 class members' time records regardless of whether a compliant meal period was taken.

11 76. As a result, Defendants failed to relieve Plaintiff and the other class members of
12 all duties, failed to relinquish control over Plaintiff and the other class members' activities,
13 failed to permit Plaintiff and the other class members a reasonable opportunity to take, and
14 impeded or discouraged them from taking thirty (30) minute uninterrupted meal periods no
15 later than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to
16 take second thirty (30) minute uninterrupted meal periods no later than their tenth hour of work
17 for shifts lasting more than ten (10) hours.

18 77. During the relevant time period, Defendants intentionally and willfully required
19 Plaintiff and the other class members to work during meal periods and failed to compensate
20 Plaintiff and the other class members the full meal period premium for work performed during
21 meal periods.

22 78. During the relevant time period, Defendants failed to pay Plaintiff and the other
23 class members the full meal period premium due pursuant to California Labor Code section
24 226.7.

25 79. Defendants' conduct violates applicable IWC Wage Order and California Labor
26 Code sections 226.7 and 512(a).

27 80. Pursuant to applicable IWC Wage Order and California Labor Code section
28 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one

1 additional hour of pay at the employee's regular rate of compensation for each work day that
2 the meal or rest period is not provided.

3 **THIRD CAUSE OF ACTION**

4 **(Violation of California Labor Code § 226.7)**

5 **(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)**

6 81. Plaintiff incorporates by reference the allegations contained in paragraphs 1
7 through 80, and each and every part thereof with the same force and effect as though fully set
8 forth herein.

9 82. At all times herein set forth, the applicable IWC Wage Order and California
10 Labor Code section 226.7 were applicable to Plaintiff's and the other class members'
11 employment by Defendants.

12 83. At all relevant times, California Labor Code section 226.7 provides that no
13 employer shall require an employee to work during any rest period mandated by an applicable
14 order of the California IWC.

15 84. At all relevant times, the applicable IWC Wage Order provides that "[e]very
16 employer shall authorize and permit all employees to take rest periods, which insofar as
17 practicable shall be in the middle of each work period" and that the "rest period time shall be
18 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
19 hours or major fraction thereof" unless the total daily work time is less than three and one-half
20 (3 ½) hours.

21 85. During the relevant time period, Defendants required Plaintiff and other class
22 members to work four (4) or more hours without authorizing or permitting a ten (10) minute
23 rest period per each four (4) hour period worked.

24 86. During the relevant time period, Plaintiff's and the other class members' rest
25 periods were missed, short, late and/or interrupted because Defendants required them to
26 perform work duties during their purported rest periods, including, but not limited to
27 completing time-sensitive demands, reviewing and completing documentation, operating
28 machinery, engaging in meetings with supervisors and employees, and completing assigned

tasks.

87. As a result, Defendants failed to provide, authorize, or permit Plaintiff and the other class members to take a full, uninterrupted, off-duty rest period for every shift lasting three and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed to make a good faith effort to authorize, permit, and provide such rest breaks in the middle of each work period.

88. During the relevant time period, Defendants willfully required Plaintiff and the other class members to work during rest periods and failed to pay Plaintiff and the other class members the full rest period premium for work performed during rest periods.

89. During the relevant time period, Defendants failed to pay Plaintiff and the other class members the full rest period premium due pursuant to California Labor Code section 226.7.

90. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

91. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

92. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 91, and each and every part thereof with the same force and effect as though fully set forth herein.

93. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

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2 94. During the relevant time period, Defendants failed to pay minimum wage to
3 Plaintiff and the other class members as required, pursuant to California Labor Code sections
4 1194, 1197, and 1197.1. Defendants' failure to pay minimum wages included, *inter alia*,
5 Defendants' effective payment of zero dollars per hour for hours Plaintiff and the other class
6 members worked off-the-clock performing work duties and also implementing an improper
7 rounding procedure and automatically deducting meal periods from Plaintiff's and other class
8 members' time records regardless of whether a complaint meal period was taken.

9 95. During the relevant time period, Plaintiff and the other class members were
10 required to perform job duties off-the-clock, including, but not limited to, gathering necessary
11 tools, engaging in scheduling discussions, donning and doffing uniforms and/or protective
12 gear, completing time-sensitive demands, reviewing and completing documentation, operating
13 machinery, engaging in meetings between supervisors and employees, and completing
14 assigned tasks.

15 96. During the relevant time period, Plaintiff and the other class members were not
16 compensated at the minimum wage for the time they spent performing job duties off-the-clock.

17 97. Defendants' failure to pay Plaintiff and the other class members the minimum
18 wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to
19 those sections Plaintiff and the other class members are entitled to recover the unpaid balance
20 of their minimum wage compensation as well as interest, costs, and attorney's fees, and
21 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

22 98. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class
23 members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each
24 employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
25 minimum wages.

26 99. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class
27 members are entitled to recover liquidated damages in an amount equal to the wages
28 unlawfully unpaid and interest thereon.

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2 **FIFTH CAUSE OF ACTION**

3 **(Violation of California Labor Code §§ 201 and 202)**

4 **(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)**

5 100. Plaintiff incorporates by reference the allegations contained in paragraphs 1
6 through 99, and each and every part thereof with the same force and effect as though fully set
7 forth herein.

8 101. At all relevant times herein set forth, California Labor Code sections 201 and
9 202 provide that if an employer discharges an employee, the wages earned and unpaid at the
10 time of discharge are due and payable immediately, and if an employee quits his or her
11 employment, his or her wages shall become due and payable not later than seventy-two (72)
12 hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her
13 intention to quit, in which case the employee is entitled to his or her wages at the time of
14 quitting.

15 102. During the relevant time period, Plaintiff and the other class members were
16 required to perform job duties off-the-clock, including, but not limited to, gathering necessary
17 tools, engaging in scheduling discussions, donning and doffing uniforms and/or protective
18 gear, completing time-sensitive demands, reviewing and completing documentation, operating
19 machinery, engaging in meetings between supervisors and employees, and completing
20 assigned tasks.

21 103. During the relevant time period, Plaintiff and the other class members were not
22 compensated at the minimum wage for the time they spent performing job duties off the clock.

23 104. During the relevant time period, Plaintiff and the other class members were not
24 paid overtime wages owed to them for all the time they spent performing job duties off the
25 clock in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8)
26 hours worked on the seventh day of work.

27 105. During the relevant time period, Plaintiff and the other class members were
28 required to perform work duties, including, but not limited to, completing time-sensitive

1 demands, reviewing and completing documentation, operating machinery, engaging in
2 meetings between supervisors and employees, and completing assigned tasks, which resulted
3 in late, short, and/or interrupted meal periods.

4 106. During the relevant time period, Plaintiff and the other class members' rest
5 periods were missed, short, late, and/or interrupted because Defendant required them to
6 perform work duties, including, but not limited to, completing time-sensitive demands,
7 reviewing and completing documentation, operating machinery, engaging in meetings with
8 supervisors and employees, and completing assigned tasks.

9 107. During the relevant time period, Plaintiff and the other class members were not
10 paid the full meal period premium for work performed during meal periods, which were due
11 pursuant to California Labor Code section 226.7.

12 108. During the relevant time period, Plaintiff and other class members were not paid
13 the full rest period premium for work performed during rest periods, which were due pursuant
14 to California Labor Code section 226.7.

15 109. As a result, during the relevant time period, Plaintiff and the other class
16 members did not receive all of their wages, earned and unpaid, within seventy-two (72) hours
17 of leaving Defendants' employ.

18 110. During the relevant time period, Defendants intentionally and willfully failed to
19 pay Plaintiff and the other class members who are no longer employed by Defendants their
20 wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

21 111. Defendants' failure to pay Plaintiff and the other class members who are no
22 longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72)
23 hours of their leaving Defendants' employ, is in violation of California Labor Code sections
24 201 and 202.

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

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2 113. Plaintiff and the other class members are entitled to recover from Defendants the
3 statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum
4 pursuant to California Labor Code section 203.

5 **SIXTH CAUSE OF ACTION**

6 **(Violation of California Labor Code § 204)**

7 **(Against MYERS POWER PRODUCTS, INC., and DOES 1 through 100)**

8 114. Plaintiff incorporates by reference the allegations contained in paragraphs 1
9 through 113, and each and every part thereof with the same force and effect as though fully set
10 forth herein.

11 115. At all times herein set forth, California Labor Code section 204 provides that all
12 wages earned by any person in any employment between the 1st and 15th days, inclusive, of
13 any calendar month, other than those wages due upon termination of an employee, are due and
14 payable between the 16th and the 26th day of the month during which the labor was
15 performed.

16 116. At all times herein set forth, California Labor Code section 204 provides that all
17 wages earned by any person in any employment between the 16th and the last day, inclusive,
18 of any calendar month, other than those wages due upon termination of an employee, are due
19 and payable between the 1st and the 10th day of the following month.

20 117. At all times herein set forth, California Labor Code section 204 provides that all
21 wages earned for labor in excess of the normal work period shall be paid no later than the
22 payday for the next regular payroll period.

23 118. During the relevant time period, Defendants intentionally and willfully failed to
24 pay Plaintiff and the other class members all wages due to them, within any time period
25 permissible under California Labor Code section 204.

26 119. Plaintiff and the other class members are entitled to recover all remedies
27 available for violations of California Labor Code section 204.

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SEVENTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

119. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 118, and each and every part thereof with the same force and effect as though fully set forth herein.

120. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments 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 or a 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.

121. Defendants have intentionally and willfully failed to provide Plaintiff and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the accurate total wages earned and the accurate total number of hours worked by Plaintiff and the other class members, including but not limited to work performed off-the-clock and as a result of improper rounding of time and improper automatic deduction of time for meal periods.

122. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff and the other class members have suffered injury and damage to their statutorily-

protected rights.

123. More specifically, Plaintiff and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

124. Plaintiff and the other class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

125. Plaintiff and the other class members are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h).

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 1174(d))

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

126. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 125, and each and every part thereof with the same force and effect as though fully set forth herein.

127. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

128. Defendants have intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other class members.

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129. As a result of Defendants' violation of California Labor Code section 1174(d), Plaintiff and the other class members have suffered injury and damage to their statutorily-protected rights.

130. More specifically, Plaintiff and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 1174(d) because they were denied both their legal right and protected interest, in having available, accurate and complete payroll records pursuant to California Labor Code section 1174(d).

NINTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2800 and 2802)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

131. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 130, and each and every part thereof with the same force and effect as though fully set forth herein.

132. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

133. During the relevant time period, IWC Wage Orders 1-2001 § 9(b), 4-2001 § 9(b), and 7-2001 § were applicable to Plaintiff's and the other class members' employment with Defendants, which requires, in part, that if tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage may be required to provide and maintain tools and equipment.

134. Plaintiff and the other class members incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including, but not limited to , the use of personal phones and vehicles for business-related matters and the cost of purchasing and/or maintaining equipment, footwear, tools, toolboxes, protective gear, and apparel to comply

1 with the dress code. Defendants have intentionally and willfully failed to reimburse Plaintiff
2 and the other class members for all necessary business-related expenses and costs. Further,
3 Defendants failed to provide and/or reimburse the tools, toolboxes, personal protective
4 equipment, uniforms, steel-toed boots, and/or use of personal cell phones and/or vehicles
5 necessary to perform job duties or pay double-minimum wage as required by applicable IWC
6 Wage Orders (including, *inter alia*, Wage Orders 1-2001 § 9(b), 4-2001 § 9(b), and 7-2001 §
7 9(b)).

8 135. Plaintiff and the other class members are entitled to recover from Defendants
9 their business-related expenses and costs incurred during the course and scope of their
10 employment, plus interest accrued from the date on which the employee incurred the necessary
11 expenditures at the same rate as judgments in civil actions in the State of California.

12 **TENTH CAUSE OF ACTION**

13 **(Violation of California Business & Professions Code §§ 17200, et seq.)**

14 **(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)**

15 136. Plaintiff incorporates by reference the allegations contained in paragraphs 1
16 through 135, and each and every part thereof with the same force and effect as though fully set
17 forth herein.

18 137. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
19 unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants'
20 competitors. Accordingly, Plaintiff seek to enforce important rights affecting the public
21 interest within the meaning of Code of Civil Procedure section 1021.5.

22 138. Defendants' activities as alleged herein are violations of California law, and
23 constitute unlawful business acts and practices in violation of California Business &
24 Professions Code section 17200, et seq.

25 139. A violation of California Business & Professions Code section 17200, et seq.
26 may be predicated on the violation of any state or federal law. In this instant case, Defendants'
27 policies and practices of requiring employees, including Plaintiff and the other class members,
28 to work overtime without paying them proper compensation violate California Labor Code

1 sections 510 and 1198. Additionally, Defendants' policies and practices of requiring
2 employees, including Plaintiff and the other class members, to work through their meal and
3 rest periods without paying them proper compensation violate California Labor Code sections
4 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate
5 California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and
6 practices of failing to timely pay wages to Plaintiff and the other class members violate
7 California Labor Code sections 201 through 204. Defendants also violated California Labor
8 Code sections 226(a), 1174(d), 2800 and 2802.

9 140. As a result of the herein described violations of California law, Defendants
10 unlawfully gained an unfair advantage over other businesses.

11 141. Plaintiff and the other class members have been personally injured by
12 Defendants' unlawful business acts and practices as alleged herein, including but not
13 necessarily limited to the loss of money and/or property.

14 142. Pursuant to California Business & Professions Code sections 17200, et seq.,
15 Plaintiff and the other class members are entitled to restitution of the wages withheld and
16 retained by Defendants during a period that commences July 10, 2015; an award of attorneys'
17 fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws;
18 and an award of costs.

19 **ELEVENTH CAUSE OF ACTION**

20 **(Violation of California Labor Code § 2698, et seq.)**

21 **(Against MYERS POWER PRODUCTS, INC., and DOES 1 through 100)**

22 143. Plaintiff incorporates by reference the allegations contained in paragraphs 1
23 through 142, and each and every part thereof with the same force and effect as though fully set
24 forth herein.

25 144. PAGA expressly establishes that any provision of the California Labor Code
26 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
27 departments, divisions, commissions, boards, agencies or employees for a violation of the
28 California Labor Code, may be recovered through a civil action brought by an aggrieved

1 employee on behalf of himself or herself, and other current or former employees.

2 ///

3 145. Whenever the LWDA, or any of its departments, divisions, commissions,
4 boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action
5 is authorized to exercise the same discretion, subject to the same limitations and conditions, to
6 assess a civil penalty.

7 146. Plaintiff and the other hourly-paid or non-exempt employees, are “aggrieved
8 employees” as defined by California Labor Code section 2699(c) in that they are all current or
9 former employees of Defendants, and one or more of the alleged violations was committed
10 against them.

11 **Failure to Pay Overtime**

12 147. Defendants’ failure to pay overtime in violation of the Wage Orders and
13 California Labor Code sections 510 and 1198, as alleged above, constitutes unlawful and/or
14 unfair activity prohibited by California Labor Code sections 510 and 1198.

15 **Failing to Provide Meal Periods**

16 148. Defendants’ failure to provide legally required meal periods in violation of the
17 Wage Orders and California Labor Code sections 226.7 and 512(a), as alleged above,
18 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 226.7
19 and 512(a).

20 **Failure to Provide Rest Periods**

21 149. Defendants’ failure to provide legally required rest periods in violation of the
22 Wage Orders and California Labor Code section 226.7, as alleged above, constitutes unlawful
23 and/or unfair activity prohibited by California Labor Code section 226.7.

24 **Failure to Pay Minimum Wages**

25 150. Defendants’ failure to pay minimum wages in violation of the Wage Orders and
26 California Labor Code sections 1194, 1197 and 1197.1, as alleged above, constitutes unlawful
27 and/or unfair activity prohibited by California Labor Code sections 1194, 1197, and 1197.1.
28

Failure to Timely Pay Wages Upon Termination

151. Defendants' failure to timely pay wages upon termination in violation of California Labor Code sections 201 and 202, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

152. Defendants' failure to timely pay wages during employment in violation of California Labor Code section 204, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Compliant Wage Statements

153. Defendants' failure to provide compliant wage statements in violation of California Labor Code section 226(a), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete or Accurate Payroll Records

154. Defendants' failure to keep complete or accurate payroll records in violation of California Labor Code section 1174(d), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business Expenses

155. Defendants' failure to reimburse all necessary business-related expenses and costs in violation of California Labor Code sections 2800 and 2802, as well as Defendants' failure to provide and/or reimburse the tools, toolboxes, personal protective equipment, uniforms, steel-toed boots, and/or use of personal cell phones and/or vehicles necessary to perform job duties or pay double-minimum wage as required by applicable IWC Wage Orders (including, *inter alia*, Wage Orders 1-2001 § 9(b), 4-2001 § 9(b), and 7-2001 § 9(b)) as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

156. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each of them, business expenses, unpaid wages, and/or untimely wages according to proof, interest,

attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all penalties against Defendants, and each of them, including but not limited to:

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 section 11010, *et seq.* in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and
- d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

157. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five percent (25%) to the aggrieved employees.

158. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

DEMAND FOR JURY TRIAL

Plaintiff, individually, and on behalf of other members of the general public similarly

1 situated and on behalf of other aggrieved employees pursuant to the California Private
2 Attorneys General Act, requests a trial by jury.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, individually, and on behalf of other members of the general
5 public similarly situated and on behalf of other aggrieved employees pursuant to the California
6 Private Attorneys General Act, prays for relief and judgment against Defendants, jointly and
7 severally, as follows:

8 **Class Certification**

- 9 1. That this action be certified as a class action as to the first ten causes of action;
10 2. That Plaintiff be appointed as the representative of the Class;
11 3. That counsel for Plaintiff be appointed as Class Counsel; and
12 4. That Defendants provide to Class Counsel immediately the names and most
13 current/last known contact information (address, e-mail and telephone numbers)
14 of all class members.

15 **As to the First Cause of Action**

16 5. That the Court declare, adjudge and decree that Defendants violated California
17 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
18 all overtime wages due to Plaintiff and the other class members;

19 6. For general unpaid wages at overtime wage rates and such general and special
20 damages as may be appropriate;

21 7. For pre-judgment interest on any unpaid overtime compensation commencing
22 from the date such amounts were due;

23 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
24 California Labor Code section 1194; and

25 9. For such other and further relief as the Court may deem just and proper.

26 **As to the Second Cause of Action**

27 10. That the Court declare, adjudge and decree that Defendants violated California
28 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to

1 provide all meal periods (including second meal periods) to Plaintiff and the other class
2 members;

3 11. That the Court make an award to Plaintiff and the other class members of one
4 (1) hour of pay at each employee's regular rate of compensation for each workday that a meal
5 period was not provided;

6 12. For all actual, consequential, and incidental losses and damages, according to
7 proof;

8 13. For premium wages pursuant to California Labor Code section 226.7(c);

9 14. For pre-judgment interest on any unpaid wages from the date such amounts
10 were due;

11 15. For reasonable attorneys' fees and costs of suit incurred herein; and

12 16. For such other and further relief as the Court may deem just and proper.

13 **As to the Third Cause of Action**

14 17. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
16 rest periods to Plaintiff and the other class members;

17 18. That the Court make an award to Plaintiff and the other class members of one
18 (1) hour of pay at each employee's regular rate of compensation for each workday that a rest
19 period was not provided;

20 19. For all actual, consequential, and incidental losses and damages, according to
21 proof;

22 20. For premium wages pursuant to California Labor Code section 226.7(c);

23 21. For pre-judgment interest on any unpaid wages from the date such amounts
24 were due; and

25 22. For such other and further relief as the Court may deem just and proper.

26 **As to the Fourth Cause of Action**

27 23. That the Court declare, adjudge and decree that Defendants violated California
28 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to

1 Plaintiff and the other class members;

2 24. For general unpaid wages and such general and special damages as may be
3 appropriate;

4 25. For statutory wage penalties pursuant to California Labor Code section 1197.1
5 for Plaintiff and the other class members in the amount as may be established according to
6 proof at trial;

7 26. For pre-judgment interest on any unpaid compensation from the date such
8 amounts were due;

9 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
10 California Labor Code section 1194(a);

11 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

12 29. For such other and further relief as the Court may deem just and proper.

13 **As to the Fifth Cause of Action**

14 30. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
16 time of termination of the employment of Plaintiff and the other class members no longer
17 employed by Defendants;

18 31. For all actual, consequential, and incidental losses and damages, according to
19 proof;

20 32. For statutory wage penalties pursuant to California Labor Code section 203 for
21 Plaintiff and the other class members who have left Defendants' employ;

22 33. For pre-judgment interest on any unpaid compensation from the date such
23 amounts were due; and

24 34. For such other and further relief as the Court may deem just and proper.

25 **As to the Sixth Cause of Action**

26 35. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code section 204 by willfully failing to pay all compensation owed at the time required
28 by California Labor Code section 204 to Plaintiff and the other class members;

36. For all actual, consequential, and incidental losses and damages, according to proof;

37. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For statutory penalties pursuant to California Labor Code section 226(e);

42. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and

43. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiff and the other class members as required by California Labor Code section 1174(d);

45. For actual, consequential and incidental losses and damages, according to proof;

46. For statutory penalties pursuant to California Labor Code section 1174.5; and

47. For such other and further relief as the Court may deem just and proper.

As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802 and failing to provide and/or reimburse the tools necessary to

perform job duties or pay double-minimum wage as required by applicable IWC Wage Orders (including, *inter alia*, Wage Orders 1-2001 § 9(b), 4-2001 § 9(b), and 7-2001 § 9(b));

49. For actual, consequential and incidental losses and damages, according to proof;

50. For the imposition of civil penalties and/or statutory penalties;

51. For reasonable attorneys' fees and costs of suit incurred herein; and

52. For such other and further relief as the Court may deem just and proper.

As to the Tenth Cause of Action

53. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

54. For restitution of unpaid wages to Plaintiff and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

55. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, et seq.;

56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

57. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, et seq.; and

58. For such other and further relief as the Court may deem just and proper.

As to the Eleventh Cause of Action

59. For civil penalties and wages pursuant to California Labor Code sections 2699(a), (f), and (g) plus costs and attorneys' fees for violation of California Labor Code

sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and Industrial Welfare Commission Wage Orders, including, *inter alia*, Wage Order Nos. 1-2001, 4-2001 and 7-2001; and

60. For such other and further relief as the Court may deem equitable and appropriate.

Dated: November 8, 2022

LAWYERS for JUSTICE, PC

By: _____

Edwin Aiwarzian
Attorneys for Plaintiff

LAWYERS FOR JUSTICE^{PC}

December 28, 2021

*BY FILING ON THE CALIFORNIA LABOR & WORKFORCE DEVELOPMENT AGENCY'S
ONLINE PAGA FILING SYSTEM*

California Labor & Workforce Development Agency

Re: MYERS POWER PRODUCTS, INC.

Dear Representative:

We have been retained to represent Andres Casas against Myers Power Products, Inc. (including any and all affiliates, subsidiaries, and parents, and their shareholders, officers, directors, and employees) (collectively referred to as "MPP" or "Defendant") for violations of California wage-and-hour laws.

Mr. Casas is the named plaintiff in San Bernardino County Superior Court Case No. CIVDS1920109, entitled *Andres Casas v. Myers Power Products, Inc.* ("Lawsuit"), which alleges that MPP violated multiple provisions of the California Labor Code. Attached hereto as "**Attachment A**" is the Class Action Complaint for Damages ("Complaint") and attached hereto as "**Attachment B**" is the First Amended Class Action Complaint for Damages ("First Amended Complaint") filed in the Lawsuit.

For all of the reasons set forth in the Complaint and First Amended Complaint, asserted in the Lawsuit, and also those espoused herein, Mr. Casas seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") and all other remedies available under PAGA.

Mr. Casas will seek penalties on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

During the relevant time period, MPP employed Mr. Casas as an hourly-paid, non-exempt employee in the State of California. The "aggrieved employees" that Mr. Casas seeks penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for MPP within the State of California.

Based on the following facts and theories, asserted in the Lawsuit, and also those espoused herein, MPP has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders 1-2001, 4-2001 and 7-2001.

MPP required aggrieved employees to perform work off-the-clock before their scheduled shifts, after their scheduled shifts, and during meal breaks, as well as to perform work during rest breaks, and as a result, MPP failed to properly compensate aggrieved employees for all time worked. Further, MPP implemented an improper rounding procedure, and automatically deducted meal periods from aggrieved employees' time records regardless of whether a compliant meal period was taken.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week, and/or more than six (6) consecutive days in one week, without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Casas and other aggrieved employees worked in excess of 8 hours in a day, 40 hours in a week, and/or 6 days in a workweek. Therefore, Mr. Casas and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked. MPP's failure to pay overtime wages also includes, and is not limited to, MPP's failure to properly calculate the regular rate of pay and failure to include earned commissions, non-discretionary bonuses, non-discretionary monetary and non-monetary incentives, non-discretionary production and/or performance pay, and/or shift differentials in its calculation of the regular rate of pay used to calculate the overtime rate for the payment of overtime wages. For example, MPP failed to compensate aggrieved employees at one-and-one half times the appropriate regular rate of pay, instead paying them only their base hourly rate, or at times less than that rate, for hours worked in excess of 8 hours in a day, 40 hours in a week, and/or 6 days in a workweek. Further, MPP effectively paid zero dollars per hour for time Mr. Casas and the other aggrieved employees worked off-the-clock performing work duties, implemented an improper rounding procedure, and automatically deducted meal periods from Mr. Casas and other aggrieved employees' time records regardless of whether a compliant meal period was taken, which resulted in an underpayment of overtime wages to Mr. Casas and other aggrieved employees.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, MPP required Mr. Casas and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods. MPP required aggrieved employees to remain working through rest breaks, failed to relieve aggrieved employees of all duties and relinquish control over how they spent their meal and rest breaks, and failed to provide compliant meal periods. MPP further automatically deducted meal periods regardless of whether Mr. Casas and aggrieved employees took a compliant meal period and/or failed to properly record meal periods. Additionally, MPP purported to use a bell system to relieve aggrieved employees of their duties and to signal the cessation of operations following the bell sound, but Mr. Casas and other aggrieved employees often continued working after the bell and thus operations did not cease altogether.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours'

notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, MPP failed to pay Mr. Casas and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202. California Labor Code section 203 provides that if an employer willfully fails to pay the wages of an employee who is discharged or quits, the wages of the employee will continue as a penalty from the day due at the same rate until paid or until an action is commenced. During the relevant time period, MPP willfully failed to pay the wages due to Mr. Casas and other aggrieved employees who were discharged or quit, and also failed to pay penalties which accrued due to its willful failure to timely pay wages. For example, Mr. Casas and other aggrieved employees were not paid at the time of their discharge wages earned and unpaid throughout their employment, including but not limited to, minimum wages for time worked off-the-clock to perform work duties, for meal and rest period premium payments, and as a result of MPP's failure to properly calculate the regular rate of pay, improper rounding procedure, and automatic deduction of meal periods regardless of whether a compliant meal period was taken.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, MPP failed to pay Mr. Casas and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204. For example, Mr. Casas and other aggrieved employees were not timely paid wages during their employment, including but not limited to, minimum wages for time worked off-the-clock to perform work duties, for meal and rest period premium payments, and as a result of Defendant's failure to properly calculate the regular rate of pay, improper rounding procedure, and automatic deduction of meal periods regardless of whether a compliant meal period was taken.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, MPP did not provide Mr. Casas and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from MPP were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Casas and other aggrieved employees. For example, Defendant implemented an improper rounding procedure that failed to credit Mr. Casas and other aggrieved employees for all time worked, automatically deducted meal periods from Mr. Casas and other aggrieved employees' time records regardless of whether a compliant meal period was taken, and failed to account for and compensate for all time worked "off-the-clock," and as a result, it failed to provide complete and accurate wage statements.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause his employees to work more than six days in a workweek, and that an employer shall pay a civil

penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Mr. Casas and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Mr. Casas and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Mr. Casas and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Mr. Casas and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in a seven (7) day workweek during each calendar month.

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, MPP failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages paid, to Mr. Casas and other aggrieved employees. For example, Defendant implemented an improper rounding procedure that failed to credit Mr. Casas and other aggrieved employees for all time worked, automatically deducted meal periods from Mr. Casas and other aggrieved employees' time records regardless of whether a compliant meal period was taken and/or failed to properly record meal periods, and failed to account for and compensate for all time worked "off-the-clock," and as a result, it failed to keep accurate and complete payroll records.

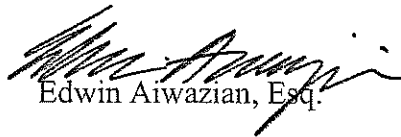
California Labor Code California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, MPP did not provide Mr. Casas and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock." For example, MPP effectively paid zero dollars per hour for time Mr. Casas and the other aggrieved employees worked off-the-clock performing work duties, implemented an improper rounding procedure, and automatically deducted meal periods from Mr. Casas and other aggrieved employees' time records regardless of whether a compliant meal period was taken, which resulted in an underpayment of minimum wages to Mr. Casas and other aggrieved employees.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Casas and other aggrieved employees incurred necessary business-related expenses and costs that were not reimbursed by MPP. These costs include, but are not limited to, the costs of tools, toolboxes, personal protective equipment, uniforms, steel-toed boots and the costs of using personal cell phones to carry out their job duties.

Therefore, on behalf of all aggrieved employees, Mr. Casas seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, and facts and theories set forth herein, which could be assessed and collected by the Labor and Workforce Development Agency for violation of the California Labor Code, pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

If you have any questions or require additional information, please do not hesitate to contact us.

With kind regards,


Edwin Arwazian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

Myers Power Products, Inc.
c/o Matthew C. Kane
Baker & Hostetler LLP
Attorney
11601 Wilshire Blvd., Suite 1400
Los Angeles, CA 90025

ATTACHMENT A

EXHIBIT B

Edwin Aiwarzian (SBN 232943)
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410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUL 10 2019

BY Daniela Vargas
DANIELA VARGAS, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ANDRES CASAS, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

vs.

MYERS POWER PRODUCTS, INC., an
unknown business entity; and DOES 1
through 100, inclusive,

Defendants.

Case No. **CIV DS 1920109**

**CLASS ACTION COMPLAINT FOR
DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (10) Violation of California Business & Professions Code §§ 17200, et seq.

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff ANDRES CASAS ("Plaintiff"), individually, and on behalf of other members of the general public similarly situated, and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The "amount in controversy" for the named Plaintiff, including but not limited to claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys' fees, is less than seventy-five thousand dollars (\$75,000).

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court "original jurisdiction in all other causes" except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of San Bernardino. The majority of acts and omissions alleged herein relating to Plaintiff and the other class members took place in the State of California, including the County of San Bernardino. At all relevant times, Defendant maintained its headquarters/"nerve center" within the State of California, County of San Bernardino.

PARTIES

5. Plaintiff ANDRES CASAS is an individual residing in the State of California, County of San Bernardino.

///

1 6. Defendant MYERS POWER PRODUCTS, INC., at all times herein mentioned,
2 was and is, upon information and belief, an employer whose employees are engaged
3 throughout the State of California, including the County of San Bernardino.

4 7. At all relevant times, Defendant MYERS POWER PRODUCTS, INC. was the
5 "employer" of Plaintiff within the meaning of all applicable California laws and statutes.

6 8. At all times herein relevant, Defendants MYERS POWER PRODUCTS, INC.
7 and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint
8 employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or
9 assigns, each of the other, and at all times relevant hereto were acting within the course and
10 scope of their authority as such agents, partners, joint venturers, joint employers,
11 representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or
12 omissions alleged herein were duly committed with the ratification, knowledge, permission,
13 encouragement, authorization and/or consent of each defendant designated as a DOE herein.

14 9. The true names and capacities, whether corporate, associate, individual or
15 otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sue
16 said defendants by such fictitious names. Plaintiff is informed and believes, and based on that
17 information and belief alleges, that each of the defendants designated as a DOE is legally
18 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
19 the injuries and damages to Plaintiff and the other class members as alleged in this Complaint.
20 Plaintiff will seek leave of court to amend this Complaint to show the true names and
21 capacities when the same have been ascertained.

22 10. Defendant MYERS POWER PRODUCTS, INC. and DOES 1 through 100 will
23 hereinafter collectively be referred to as "Defendants."

24 11. Plaintiff further alleges that Defendants directly or indirectly controlled or
25 affected the working conditions, wages, working hours, and conditions of employment of
26 Plaintiff and the other class members so as to make each of said Defendants employers liable
27 under the statutory provisions set forth herein.

28 ///

CLASS ACTION ALLEGATIONS

12. Plaintiff bring this action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under California Code of Civil Procedure section 382.

13. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from four years preceding the filing of this Complaint to final judgment and who reside in California.

14. Plaintiff reserves the right to establish subclasses as appropriate.

15. The class is ascertainable and there is a well-defined community of interest in the litigation:

- a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- b. Typicality: Plaintiff's claims are typical of all other class members' as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom he has a well-defined community of interest.
- c. Adequacy: Plaintiff will fairly and adequately protect the interests of each class member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other class members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur,

costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

- d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.
- e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

16. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
- b. Whether Defendants' had a corporate policy and practice of failing to pay their hourly-paid or non-exempt employees within the State of California for all hours worked and missed (short, late, interrupted, and/or missed altogether) meal periods and rest breaks in violation of California law;
- c. Whether Defendants required Plaintiff and the other class members to work over eight (8) hours per day and/or over forty (40) hours per week and failed to pay the legally required overtime compensation to Plaintiff and the other class members;

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- d. Whether Defendants deprived Plaintiff and the other class members of meal and/or rest periods or required Plaintiff and the other class members to work during meal and/or rest periods without compensation;
- e. Whether Defendants failed to pay minimum wages to Plaintiff and the other class members for all hours worked;
- f. Whether Defendants failed to pay all wages due to Plaintiff and the other class members within the required time upon their discharge or resignation;
- g. Whether Defendants failed to timely pay all wages due to Plaintiff and the other class members during their employment;
- h. Whether Defendants complied with wage reporting as required by the California Labor Code; including, *inter alia*, section 226;
- i. Whether Defendants kept complete and accurate payroll records as required by the California Labor Code, including, *inter alia*, section 1174(d);
- j. Whether Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs;
- k. Whether Defendants' conduct was willful or reckless;
- l. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- m. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- n. Whether Plaintiff and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

GENERAL ALLEGATIONS

17. At all relevant times set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California, including the County of San Bernardino.

1 18. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-
2 exempt employee, from approximately February 2017 to approximately February 2018, in the
3 State of California, County of San Bernardino.

4 19. Defendants hired Plaintiff and the other class members, classified them as
5 hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and
6 missed meal periods and/or rest breaks.

7 20. Defendants had the authority to hire and terminate Plaintiff and the other class
8 members, to set work rules and conditions governing Plaintiff's and the other class members'
9 employment, and to supervise their daily employment activities.

10 21. Defendants exercised sufficient authority over the terms and conditions of
11 Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff
12 and the other class members.

13 22. Defendants directly hired and paid wages and benefits to Plaintiff and the other
14 class members.

15 23. Defendants continue to employ hourly-paid or non-exempt employees within the
16 State of California.

17 24. Plaintiff and the other class members worked over eight (8) hours in a day,
18 and/or forty (40) hours in a week during their employment with Defendants.

19 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt
21 employees within the State of California. This pattern and practice involved, *inter alia*, failing
22 to pay them for all regular and/or overtime wages earned and for missed meal periods and rest
23 breaks in violation of California law.

24 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 knew or should have known that Plaintiff and the other class members were entitled to receive
26 certain wages for overtime compensation and that they were not receiving accurate overtime
27 compensation for all overtime hours worked.

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1 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to provide Plaintiff and the other class members all required rest and meal periods during
3 the relevant time period as required under the Industrial Welfare Commission Wage Orders
4 and thus they are entitled to any and all applicable penalties.

5 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knew or should have known that Plaintiff and the other class members were entitled to receive
7 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
8 member's regular rate of pay when a meal period was missed, and they did not receive all meal
9 periods or payment of one additional hour of pay at Plaintiff's and the other class member's
10 regular rate of pay when a meal period was missed.

11 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 knew or should have known that Plaintiff and the other class members were entitled to receive
13 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
14 member's regular rate of pay when a rest period was missed, and they did not receive all rest
15 periods or payment of one additional hour of pay at Plaintiff's and the other class members'
16 regular rate of pay when a rest period was missed.

17 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 knew or should have known that Plaintiff and the other class members were entitled to receive
19 at least minimum wages for compensation and that they were not receiving at least minimum
20 wages for all hours worked.

21 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knew or should have known that Plaintiff and the other class members were entitled to receive
23 all wages owed to them upon discharge or resignation, including overtime and minimum wages
24 and meal and rest period premiums, and they did not, in fact, receive all such wages owed to
25 them at the time of their discharge or resignation.

26 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 knew or should have known that Plaintiff and the other class members were entitled to receive
28 all wages owed to them during their employment. Plaintiff and the other class members did

1 not receive payment of all wages, including overtime and minimum wages and meal and rest
2 period premiums, within any time permissible under California Labor Code section 204.

3 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 knew or should have known that Plaintiff and the other class members were entitled to receive
5 complete and accurate wage statements in accordance with California law, but, in fact, they did
6 not receive complete and accurate wage statements from Defendants. The deficiencies
7 included, *inter alia*, the failure to include the total number of hours worked by Plaintiff and the
8 other class members.

9 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 knew or should have known that Defendants had to keep complete and accurate payroll records
11 for Plaintiff and the other class members in accordance with California law, but, in fact, did
12 not keep complete and accurate payroll records.

13 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
14 knew or should have known that Plaintiff and the other class members were entitled to
15 reimbursement for necessary business-related expenses.

16 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 knew or should have known that they had a duty to compensate Plaintiff and the other class
18 members pursuant to California law, and that Defendants had the financial ability to pay such
19 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
20 represented to Plaintiff and the other class members that they were properly denied wages, all
21 in order to increase Defendants' profits.

22 37. During the relevant time period, Defendants failed to pay overtime wages to
23 Plaintiff and the other class members for all overtime hours worked. Plaintiff and the other
24 class members were required to work more than eight (8) hours per day and/or forty (40) hours
25 per week without overtime compensation for all overtime hours worked.

26 38. During the relevant time period, Defendants failed to provide all requisite
27 uninterrupted meal and rest periods to Plaintiff and the other class members.

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39. During the relevant time period, Defendants failed to pay Plaintiff and the other class members at least minimum wages for all hours worked.

40. During the relevant time period, Defendants failed to pay Plaintiff and the other class members all wages owed to them upon discharge or resignation.

41. During the relevant time period, Defendants failed to pay Plaintiff and the other class members all wages within any time permissible under California law, including, *inter alia*, California Labor Code section 204.

42. During the relevant time period, Defendants failed to provide complete or accurate wage statements to Plaintiff and the other class members.

43. During the relevant time period, Defendants failed to keep complete or accurate payroll records for Plaintiff and the other class members.

44. During the relevant time period, Defendants failed to reimburse Plaintiff and the other class members for all necessary business-related expenses and costs.

45. During the relevant time period, Defendants failed to properly compensate Plaintiff and the other class members pursuant to California law in order to increase Defendants' profits.

46. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

47. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 46, and each and every part thereof with the same force and effect as though fully set forth herein.

48. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular

1 rate of pay, depending on the number of hours worked by the person on a daily or weekly
2 basis.

3 49. Specifically, the applicable IWC Wage Order provides that Defendants are and
4 were required to pay Plaintiff and the other class members employed by Defendants, and
5 working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the
6 rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more
7 than forty (40) hours in a workweek.

8 50. The applicable IWC Wage Order further provides that Defendants are and were
9 required to pay Plaintiff and the other class members overtime compensation at a rate of two
10 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

11 51. California Labor Code section 510 codifies the right to overtime compensation
12 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
13 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
14 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
15 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
16 of work.

17 52. During the relevant time period, Plaintiff and the other class members worked in
18 excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

19 53. During the relevant time period, Defendants intentionally and willfully failed to
20 pay overtime wages owed to Plaintiff and the other class members.

21 54. Defendants' failure to pay Plaintiff and the other class members the unpaid
22 balance of overtime compensation, as required by California laws, violates the provisions of
23 California Labor Code sections 510 and 1198, and is therefore unlawful.

24 55. Pursuant to California Labor Code section 1194, Plaintiff and the other class
25 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
26 attorneys' fees.

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SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

56. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 55, and each and every part thereof with the same force and effect as though fully set forth herein.

57. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class members' employment by Defendants.

58. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

59. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

60. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

61. During the relevant time period, Plaintiff and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods

1 longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
2 minutes and/or rest period.

3 62. During the relevant time period, Plaintiff and the other class members who were
4 scheduled to work for a period of time in excess of six (6) hours were required to work for
5 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
6 (30) minutes and/or rest period.

7 63. During the relevant time period, Defendants intentionally and willfully required
8 Plaintiff and the other class members to work during meal periods and failed to compensate
9 Plaintiff and the other class members the full meal period premium for work performed during
10 meal periods.

11 64. During the relevant time period, Defendants failed to pay Plaintiff and the other
12 class members the full meal period premium due pursuant to California Labor Code section
13 226.7.

14 65. Defendants' conduct violates applicable IWC Wage Order and California Labor
15 Code sections 226.7 and 512(a).

16 66. Pursuant to applicable IWC Wage Order and California Labor Code section
17 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
18 additional hour of pay at the employee's regular rate of compensation for each work day that
19 the meal or rest period is not provided.

20 **THIRD CAUSE OF ACTION**

21 **(Violation of California Labor Code § 226.7)**

22 **(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)**

23 67. Plaintiff incorporates by reference the allegations contained in paragraphs 1
24 through 66, and each and every part thereof with the same force and effect as though fully set
25 forth herein.

26 68. At all times herein set forth, the applicable IWC Wage Order and California
27 Labor Code section 226.7 were applicable to Plaintiff's and the other class members'
28 employment by Defendants.

1 69. At all relevant times, California Labor Code section 226.7 provides that no
2 employer shall require an employee to work during any rest period mandated by an applicable
3 order of the California IWC.

4 70. At all relevant times, the applicable IWC Wage Order provides that "[e]very
5 employer shall authorize and permit all employees to take rest periods, which insofar as
6 practicable shall be in the middle of each work period" and that the "rest period time shall be
7 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
8 hours or major fraction thereof" unless the total daily work time is less than three and one-half
9 (3 ½) hours.

10 71. During the relevant time period, Defendants required Plaintiff and other class
11 members to work four (4) or more hours without authorizing or permitting a ten (10) minute
12 rest period per each four (4) hour period worked.

13 72. During the relevant time period, Defendants willfully required Plaintiff and the
14 other class members to work during rest periods and failed to pay Plaintiff and the other class
15 members the full rest period premium for work performed during rest periods.

16 73. During the relevant time period, Defendants failed to pay Plaintiff and the other
17 class members the full rest period premium due pursuant to California Labor Code section
18 226.7

19 74. Defendants' conduct violates applicable IWC Wage Orders and California
20 Labor Code section 226.7.

21 75. Pursuant to the applicable IWC Wage Orders and California Labor Code section
22 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one
23 additional hour of pay at the employees' regular hourly rate of compensation for each work
24 day that the rest period was not provided.

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FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

76. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 75, and each and every part thereof with the same force and effect as though fully set forth herein.

77. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

78. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194, 1197, and 1197.1.

79. Defendants' failure to pay Plaintiff and the other class members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections Plaintiff and the other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

80. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

81. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

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FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201 and 202)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

82. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 81, and each and every part thereof with the same force and effect as though fully set forth herein.

83. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

84. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and the other class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

85. Defendants' failure to pay Plaintiff and the other class members who are no longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

86. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

87. Plaintiff and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

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SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 204)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

88. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 87, and each and every part thereof with the same force and effect as though fully set forth herein.

89. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed.

90. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

91. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

92. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and the other class members all wages due to them, within any time period permissible under California Labor Code section 204.

93. Plaintiff and the other class members are entitled to recover all remedies available for violations of California Labor Code section 204.

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SEVENTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

94. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 93, and each and every part thereof with the same force and effect as though fully set forth herein.

95. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments 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 or a 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.

96. Defendants have intentionally and willfully failed to provide Plaintiff and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the total number of hours worked by Plaintiff and the other class members.

97. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff and the other class members have suffered injury and damage to their statutorily-protected rights.

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1 98. More specifically, Plaintiff and the other class members have been injured by
2 Defendants' intentional and willful violation of California Labor Code section 226(a) because
3 they were denied both their legal right to receive, and their protected interest in receiving,
4 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

5 99. Plaintiff and the other class members are entitled to recover from Defendants the
6 greater of their actual damages caused by Defendants' failure to comply with California Labor
7 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
8 employee.

9 100. Plaintiff and the other class members are also entitled to injunctive relief to
10 ensure compliance with this section, pursuant to California Labor Code section 226(h).

11 **EIGHTH CAUSE OF ACTION**

12 **(Violation of California Labor Code § 1174(d))**

13 **(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)**

14 101. Plaintiff incorporates by reference the allegations contained in paragraphs 1
15 through 100, and each and every part thereof with the same force and effect as though fully set
16 forth herein.

17 102. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a
18 central location in the state or at the plants or establishments at which employees are
19 employed, payroll records showing the hours worked daily by and the wages paid to, and the
20 number of piece-rate units earned by and any applicable piece rate paid to, employees
21 employed at the respective plants or establishments. These records shall be kept in accordance
22 with rules established for this purpose by the commission, but in any case shall be kept on file
23 for not less than two years.

24 103. Defendants have intentionally and willfully failed to keep accurate and complete
25 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other
26 class members.

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NINTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2800 and 2802)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

106. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 105, and each and every part thereof with the same force and effect as though fully set forth herein.

107. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

108. Plaintiff and the other class members incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants.

109. Defendants have intentionally and willfully failed to reimburse Plaintiff and the other class members for all necessary business-related expenses and costs.

110. Plaintiff and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

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TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, et seq.)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

111. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 110, and each and every part thereof with the same force and effect as though fully set forth herein.

112. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

113. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, et seq.

114. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the other class members violate California Labor Code sections 201, 202 and 204. Defendants also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

115. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

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116. Plaintiff and the other class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

117. Pursuant to California Business & Professions Code sections 17200, et seq., Plaintiff and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years preceding the filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

DEMAND FOR JURY TRIAL

Plaintiff, individually, and on behalf of other members of the general public similarly situated, requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of other members of the general public similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representative of the Class;
3. That counsel for Plaintiff be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and the other class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and

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

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiff and the other class members;

11. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to California Labor Code section 226.7(c);

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

16. For such other and further relief as the Court may deem just and proper.

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff and the other class members;

18. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

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1 19. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 20. For premium wages pursuant to California Labor Code section 226.7(c);

4 21. For pre-judgment interest on any unpaid wages from the date such amounts
5 were due; and

6 22. For such other and further relief as the Court may deem just and proper.

7 **As to the Fourth Cause of Action**

8 23. That the Court declare, adjudge and decree that Defendants violated California
9 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
10 Plaintiff and the other class members;

11 24. For general unpaid wages and such general and special damages as may be
12 appropriate;

13 25. For statutory wage penalties pursuant to California Labor Code section 1197.1
14 for Plaintiff and the other class members in the amount as may be established according to
15 proof at trial;

16 26. For pre-judgment interest on any unpaid compensation from the date such
17 amounts were due;

18 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
19 California Labor Code section 1194(a);

20 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

21 29. For such other and further relief as the Court may deem just and proper.

22 **As to the Fifth Cause of Action**

23 30. That the Court declare, adjudge and decree that Defendants violated California
24 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
25 time of termination of the employment of Plaintiff and the other class members no longer
26 employed by Defendants;

27 31. For all actual, consequential, and incidental losses and damages, according to
28 proof;

1 32. For statutory wage penalties pursuant to California Labor Code section 203 for
2 Plaintiff and the other class members who have left Defendants' employ;

3 33. For pre-judgment interest on any unpaid compensation from the date such
4 amounts were due; and

5 34. For such other and further relief as the Court may deem just and proper.

6 As to the Sixth Cause of Action

7 35. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code section 204 by willfully failing to pay all compensation owed at the time required
9 by California Labor Code section 204 to Plaintiff and the other class members;

10 36. For all actual, consequential, and incidental losses and damages, according to
11 proof;

12 37. For pre-judgment interest on any unpaid compensation from the date such
13 amounts were due; and

14 38. For such other and further relief as the Court may deem just and proper.

15 As to the Seventh Cause of Action

16 39. That the Court declare, adjudge and decree that Defendants violated the record
17 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
18 as to Plaintiff and the other class members, and willfully failed to provide accurate itemized
19 wage statements thereto;

20 40. For actual, consequential and incidental losses and damages, according to proof;

21 41. For statutory penalties pursuant to California Labor Code section 226(e);

22 42. For injunctive relief to ensure compliance with this section, pursuant to
23 California Labor Code section 226(h); and

24 43. For such other and further relief as the Court may deem just and proper.

25 As to the Eighth Cause of Action

26 44. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records

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1 for Plaintiff and the other class members as required by California Labor Code section
2 1174(d);

3 45. For actual, consequential and incidental losses and damages, according to proof;

4 46. For statutory penalties pursuant to California Labor Code section 1174.5; and

5 47. For such other and further relief as the Court may deem just and proper.

6 **As to the Ninth Cause of Action**

7 48. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other
9 class members for all necessary business-related expenses as required by California Labor
10 Code sections 2800 and 2802;

11 49. For actual, consequential and incidental losses and damages, according to proof;

12 50. For the imposition of civil penalties and/or statutory penalties;

13 51. For reasonable attorneys' fees and costs of suit incurred herein; and

14 52. For such other and further relief as the Court may deem just and proper.

15 **As to the Tenth Cause of Action**

16 53. That the Court decree, adjudge and decree that Defendants violated California
17 Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the
18 other class members all overtime compensation due to them, failing to provide all meal and
19 rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to
20 Plaintiff and the other class members, failing to pay Plaintiff's and the other class members'
21 wages timely as required by California Labor Code section 201, 202 and 204 and by violating
22 California Labor Code sections 226(a), 1174(d), 2800 and 2802.

23 54. For restitution of unpaid wages to Plaintiff and all the other class members and
24 all pre-judgment interest from the day such amounts were due and payable;

25 55. For the appointment of a receiver to receive, manage and distribute any and all
26 funds disgorged from Defendants and determined to have been wrongfully acquired by
27 Defendants as a result of violation of California Business and Professions Code sections
28 17200, et seq.;

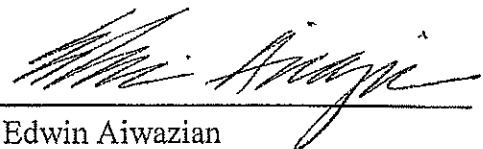
1 56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Code of Civil Procedure section 1021.5;

3 57. For injunctive relief to ensure compliance with this section, pursuant to
4 California Business and Professions Code sections 17200, et seq.; and

5 58. For such other and further relief as the Court may deem just and proper.

6 Dated: July 10, 2019

LAWYERS for JUSTICE, PC

7
8 By: 

9 Edwin Aiwazian
10 Attorneys for Plaintiff
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ATTACHMENT B

EXHIBIT B

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Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

DEC 20 2019

VERONICA GONZALEZ, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ANDRES CASAS, individually, and on
behalf of other members of the general
public similarly situated;

Plaintiff,

vs.

MYERS POWER PRODUCTS, INC., an
unknown business entity; and DOES 1
through 100, inclusive,

Defendants.

Case No.: CIVDS1920109

Honorable David Cohn
Department S26

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of California Business & Professions Code §§ 17200, et seq.

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff ANDRES CASAS ("Plaintiff"), individually, and on behalf of other members of the general public similarly situated, and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The "amount in controversy" for the named Plaintiff, including but not limited to claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys' fees, is less than seventy-five thousand dollars (\$75,000).

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court "original jurisdiction in all other causes" except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of San Bernardino. The majority of acts and omissions alleged herein relating to Plaintiff and the other class members took place in the State of California, including the County of San Bernardino. At all relevant times, Defendant maintained its headquarters/"nerve center" within the State of California, County of San Bernardino.

PARTIES

5. Plaintiff ANDRES CASAS is an individual residing in the State of California, County of San Bernardino.

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6. Defendant MYERS POWER PRODUCTS, INC., at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of San Bernardino.

7. At all relevant times, Defendant MYERS POWER PRODUCTS, INC. was the "employer" of Plaintiff within the meaning of all applicable California laws and statutes.

8. At all times herein relevant, Defendants MYERS POWER PRODUCTS, INC. and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

9. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sue said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint. Plaintiff will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

10. Defendant MYERS POWER PRODUCTS, INC. and DOES 1 through 100 will hereinafter collectively be referred to as "Defendants."

11. Plaintiff further alleges that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other class members so as to make each of said Defendants employers liable under the statutory provisions set forth herein.

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CLASS ACTION ALLEGATIONS

12. Plaintiff bring this action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under California Code of Civil Procedure section 382.

13. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from July 10, 2015 to final judgment and who reside in California.

14. Plaintiff reserves the right to establish subclasses as appropriate.

15. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiff's claims are typical of all other class members' as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom he has a well-defined community of interest.

c. Adequacy: Plaintiff will fairly and adequately protect the interests of each class member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other class members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur,

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1 costs and attorneys' fees, that have been, are, and will be necessarily
2 expended for the prosecution of this action for the substantial benefit of
3 each class member.

- 4 d. Superiority: A class action is superior to other available methods for the
5 fair and efficient adjudication of this litigation because individual joinder
6 of all class members is impractical.
- 7 e. Public Policy Considerations: Certification of this lawsuit as a class
8 action will advance public policy objectives. Employers of this great
9 state violate employment and labor laws every day. Current employees
10 are often afraid to assert their rights out of fear of direct or indirect
11 retaliation. However, class actions provide the class members who are
12 not named in the complaint anonymity that allows for the vindication of
13 their rights.

14 16. There are common questions of law and fact as to the class members that
15 predominate over questions affecting only individual members. The following common
16 questions of law or fact, among others, exist as to the members of the class:

- 17 a. Whether Defendants' failure to pay wages, without abatement or
18 reduction, in accordance with the California Labor Code, was willful;
- 19 b. Whether Defendants' had a corporate policy and practice of failing to
20 pay their hourly-paid or non-exempt employees within the State of
21 California for all hours worked and missed (short, late, interrupted,
22 and/or missed altogether) meal periods and rest breaks in violation of
23 California law;
- 24 c. Whether Defendants required Plaintiff and the other class members to
25 work over eight (8) hours per day and/or over forty (40) hours per week
26 and failed to pay the legally required overtime compensation to Plaintiff
27 and the other class members;

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- d. Whether Defendants deprived Plaintiff and the other class members of meal and/or rest periods or required Plaintiff and the other class members to work during meal and/or rest periods without compensation;
- e. Whether Defendants failed to pay minimum wages to Plaintiff and the other class members for all hours worked;
- f. Whether Defendants failed to pay all wages due to Plaintiff and the other class members within the required time upon their discharge or resignation;
- g. Whether Defendants failed to timely pay all wages due to Plaintiff and the other class members during their employment;
- h. Whether Defendants complied with wage reporting as required by the California Labor Code; including, *inter alia*, section 226;
- i. Whether Defendants kept complete and accurate payroll records as required by the California Labor Code, including, *inter alia*, section 1174(d);
- j. Whether Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs;
- k. Whether Defendants' conduct was willful or reckless;
- l. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- m. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- n. Whether Plaintiff and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

GENERAL ALLEGATIONS

17. At all relevant times set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California, including the County of San Bernardino.

1 18. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-
2 exempt employee, from approximately February 2017 to approximately February 2018, in the
3 State of California, County of San Bernardino. Plaintiff's job duties included, but were not
4 limited to, operating machinery, maintaining quality-control, and maintaining production.

5 19. Defendants hired Plaintiff and the other class members, classified them as
6 hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and
7 short, late, interrupted, and/or missed meal periods and/or rest breaks.

8 20. Defendants had the authority to hire and terminate Plaintiff and the other class
9 members, to set work rules and conditions governing Plaintiff's and the other class members'
10 employment, and to supervise their daily employment activities.

11 21. Defendants exercised sufficient authority over the terms and conditions of
12 Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff
13 and the other class members.

14 22. Defendants directly hired and paid wages and benefits to Plaintiff and the other
15 class members.

16 23. Defendants continue to employ hourly-paid or non-exempt employees within the
17 State of California.

18 24. Plaintiff and the other class members worked over eight (8) hours in a day,
19 and/or forty (40) hours in a week during their employment with Defendants.

20 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt
22 employees within the State of California. This pattern and practice involved, *inter alia*, failing
23 to pay them for all regular and/or overtime wages earned and for short, late, interrupted, and/or
24 missed meal periods and rest breaks in violation of California law.

25 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knew or should have known that Plaintiff and the other class members were entitled to receive
27 certain wages for overtime compensation and that they were not receiving accurate overtime
28 compensation for all overtime hours worked. Defendants; failure includes, *inter alia*, failing to

1 compensate Plaintiff and the other class members for job duties performed off-the-clock,
2 including, but not limited to, gathering necessary tools, engaging in scheduling discussions,
3 donning and doffing uniforms and/or protective gear, completing time-sensitive demands,
4 reviewing and completing documentation, operating machinery, engaging in meetings between
5 supervisors and employees, and completing assigned tasks.

6 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants
7 failed to provide Plaintiff and the other class members all required rest and meal periods during
8 the relevant time period as required under the Industrial Welfare Commission Wage Orders
9 and thus they are entitled to any and all applicable penalties.

10 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 failed to relieve Plaintiff and other class members of all duties, failed to relinquish control over
12 Plaintiff and the other class members' activities, failed to permit Plaintiff and the other class
13 members a reasonable opportunity to take, and impeded or discouraged them from taking thirty
14 (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work for
15 shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted meal
16 breaks no later than their tenth hour of work for shifts lasting more than ten (10) hours.

17 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 knew or should have known that Plaintiff and the other class members were entitled to receive
19 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
20 member's regular rate of pay when a meal period was short, late, interrupted, and/or missed,
21 and they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's
22 and the other class member's regular rate of pay when a meal period was short, late,
23 interrupted, and/or missed. During the relevant time period, Plaintiff's and the other class
24 members' meal periods were missed, short, late and/or interrupted because Defendants
25 required them to perform work duties, including, but not limited to completing time-sensitive
26 demands, reviewing and completing documentation, operating machinery, engaging in
27 meetings between supervisors and employees, and completing assigned tasks.

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1 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to provide, authorize, and permit Plaintiff and other class members take full,
3 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6)
4 hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten
5 (10) hours, and failed to make a good faith effort to authorize, permit, and provide such rest
6 breaks in the middle of each work period.

7 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that Plaintiff and the other class members were entitled to receive
9 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
10 member's regular rate of pay when a rest period was short, late, interrupted, and/or missed, and
11 they did not receive all rest periods or payment of one additional hour of pay at Plaintiff's and
12 the other class members' regular rate of pay when a rest period was short, late, interrupted,
13 and/or missed. During the relevant time period, Plaintiff's and the other class members' rest
14 periods were missed, short, late and/or interrupted because Defendants required them to
15 perform work duties during their purported rest periods, including, but not limited to,
16 completing time-sensitive demands, reviewing and completing documentation, operating
17 machinery, engaging in meetings between supervisors and employees, and completing
18 assigned tasks.

19 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knew or should have known that Plaintiff and the other class members were entitled to receive
21 at least minimum wages for compensation and that they were not receiving at least minimum
22 wages for all hours worked. Defendants' failure to pay minimum wages include, *inter alia*,
23 Defendants' effective payment of zero dollars per hour for all hours Plaintiff and the other
24 class members worked off-the-clock performing work duties.

25 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knew or should have known that Plaintiff and the other class members were entitled to receive
27 all wages owed to them upon discharge or resignation, including overtime and minimum wages

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1 and meal and rest period premiums, and they did not, in fact, receive all such wages owed to
2 them at the time of their discharge or resignation.

3 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 knew or should have known that Plaintiff and the other class members were entitled to receive
5 all wages owed to them during their employment. Plaintiff and the other class members did
6 not receive payment of all wages, including earned, but unpaid, overtime and minimum wages
7 and meal and rest period premiums, within any time permissible under California Labor Code
8 section 204.

9 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 knew or should have known that Plaintiff and the other class members were entitled to receive
11 complete and accurate wage statements in accordance with California law, but, in fact, they did
12 not receive complete and accurate wage statements from Defendants. The deficiencies
13 included, *inter alia*, the failure to include the accurate total number of hours worked by
14 Plaintiff and the other class members and the accurate net/gross wages earned.

15 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 knew or should have known that Defendants had to keep complete and accurate payroll records
17 for Plaintiff and the other class members in accordance with California law, but, in fact, did
18 not keep complete and accurate payroll records reflecting the accurate hours worked and the
19 accurate wages earned by Plaintiff and the other class members.

20 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 knew or should have known that Plaintiff and the other class members were entitled to
22 reimbursement for necessary business-related expenses, including but not limited to, the use of
23 personal phones for business-related matters, the cost of purchasing equipment, footwear, and
24 protective gear for business-related matters, and the cost of purchasing apparel in compliance
25 with the dress code.

26 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 knew or should have known that they had a duty to compensate Plaintiff and the other class
28 members pursuant to California law, and that Defendants had the financial ability to pay such

1 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
2 represented to Plaintiff and the other class members that they were properly denied wages, all
3 in order to increase Defendants' profits.

4 39. During the relevant time period, Defendants failed to pay overtime wages to
5 Plaintiff and the other class members for all overtime hours worked. Plaintiff and the other
6 class members were required to work more than eight (8) hours per day and/or forty (40) hours
7 per week without overtime compensation for all overtime hours worked.

8 40. During the relevant time period, Defendants failed to provide all requisite
9 uninterrupted meal and rest periods to Plaintiff and the other class members.

10 41. During the relevant time period, Defendants failed to pay Plaintiff and the other
11 class members at least minimum wages for all hours worked, including work performed off-
12 the-clock.

13 42. During the relevant time period, Defendants failed to pay Plaintiff and the other
14 class members all wages owed to them upon discharge or resignation, including earned and
15 unpaid overtime and minimum wages and meal and rest period premiums.

16 43. During the relevant time period, Defendants failed to pay Plaintiff and the other
17 class members all wages within any time permissible under California law, including, *inter*
18 *alia*, California Labor Code section 204, including earned and unpaid overtime and minimum
19 wages and meal and rest period premiums.

20 44. During the relevant time period, Defendants failed to provide complete or
21 accurate wage statements to Plaintiff and the other class members. The deficiencies included,
22 *inter alia*, the failure to include the accurate total number of hours worked by Plaintiff and the
23 other class members and the accurate net/gross wages earned.

24 45. During the relevant time period, Defendants failed to keep complete or accurate
25 payroll records for Plaintiff and the other class members. The deficiencies included, *inter alia*,
26 the failure to record the accurate total number of hours worked by Plaintiff and the other class
27 members and the accurate net/gross wages earned.

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1 46. During the relevant time period, Defendants failed to reimburse Plaintiff and the
2 other class members for all necessary business-related expenses and costs, including, but not
3 limited to the use of personal phones for business-related matters, the cost of complying with
4 the dress code, and the cost of necessary tools.

5 47. During the relevant time period, Defendants failed to properly compensate
6 Plaintiff and the other class members pursuant to California law in order to increase
7 Defendants' profits.

8 48. California Labor Code section 218 states that nothing in Article 1 of the Labor
9 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty
10 due to him [or her] under this article."

11 **FIRST CAUSE OF ACTION**

12 **(Violation of California Labor Code §§ 510 and 1198)**

13 **(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)**

14 49. Plaintiff incorporates by reference the allegations contained in Paragraphs 1
15 through 48 and each and every part thereof with the same force and effect as though fully set
16 forth herein.

17 50. California Labor Code section 1198 and the applicable Industrial Welfare
18 Commission ("IWC") Wage Order provide that it is unlawful to employ persons without
19 compensating them at a rate of pay either time-and-one-half or two-times that person's regular
20 rate of pay, depending on the number of hours worked by the person on a daily or weekly
21 basis.

22 51. Specifically, the applicable IWC Wage Order provides that Defendants are and
23 were required to pay Plaintiff and the other class members employed by Defendants, and
24 working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the
25 rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more
26 than forty (40) hours in a workweek.

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1 52. The applicable IWC Wage Order further provides that Defendants are and were
2 required to pay Plaintiff and the other class members overtime compensation at a rate of two
3 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

4 53. California Labor Code section 510 codifies the right to overtime compensation
5 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
6 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
7 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
8 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
9 of work.

10 54. During the relevant time period, Plaintiff and the other class members worked in
11 excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week including
12 performing work duties off-the-clock including, but not limited to gathering necessary tools,
13 engaging in scheduling discussions, donning and doffing uniforms and/or protective gear,
14 completing time-sensitive demands, reviewing and completing documentation, operating
15 machinery, engaging in meetings between supervisors and employees, and completing
16 assigned tasks.

17 55. During the relevant time period, Defendants intentionally and willfully failed to
18 pay overtime wages owed to Plaintiff and the other class members. Plaintiff and other class
19 members did not receive overtime compensation at one-and-one-half times the regular hourly
20 rate for all hours spent performing job duties in excess of eight (8) hours in a day or forty (40)
21 hours in a week or for the first eight (8) hours worked on the seventh day.

22 56. Defendants' failure to pay Plaintiff and the other class members the unpaid
23 balance of overtime compensation, as required by California laws, violates the provisions of
24 California Labor Code sections 510 and 1198, and is therefore unlawful.

25 57. Pursuant to California Labor Code section 1194, Plaintiff and the other class
26 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
27 attorneys' fees.

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SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

58. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 57, and each and every part thereof with the same force and effect as though fully set forth herein.

59. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class members' employment by Defendants.

60. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

61. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

62. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

63. During the relevant time period, Plaintiff and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods

1 longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
2 minutes and/or rest period.

3 64. During the relevant time period, Plaintiff and the other class members who were
4 scheduled to work for a period of time in excess of six (6) hours were required to work for
5 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
6 (30) minutes and/or rest period.

7 65. During the relevant time period, Plaintiff and the other class members' meal
8 periods were missed, shortened, late, and/or interrupted because Defendants required them to
9 perform work duties off-the-clock including, but not limited to gathering necessary tools,
10 engaging in scheduling discussions, donning and doffing uniforms and/or protective gear,
11 completing time-sensitive demands, reviewing and completing documentation, operating
12 machinery, engaging in meetings between supervisors and employees, and completing
13 assigned tasks.

14 66. As a result, Defendants failed to relieve Plaintiff and the other class members of
15 all duties, failed to relinquish control over Plaintiff and the other class members' activities,
16 failed to permit Plaintiff and the other class members a reasonable opportunity to take, and
17 impeded or discouraged them from taking thirty (30) minute uninterrupted meal periods no
18 later than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to
19 take second thirty (30) minute uninterrupted meal periods no later than their tenth hour of work
20 for shifts lasting more than ten (10) hours.

21 67. During the relevant time period, Defendants intentionally and willfully required
22 Plaintiff and the other class members to work during meal periods and failed to compensate
23 Plaintiff and the other class members the full meal period premium for work performed during
24 meal periods.

25 68. During the relevant time period, Defendants failed to pay Plaintiff and the other
26 class members the full meal period premium due pursuant to California Labor Code section
27 226.7.

28 ///

69. Defendants' conduct violates applicable IWC Wage Order and California Labor Code sections 226.7 and 512(a).

70. Pursuant to applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

71. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 70, and each and every part thereof with the same force and effect as though fully set forth herein.

72. At all times herein set forth, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and the other class members' employment by Defendants.

73. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

74. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

75. During the relevant time period, Defendants required Plaintiff and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

///

76. During the relevant time period, Plaintiff's and the other class members' rest periods were missed, short, late and/or interrupted because Defendants required them to perform work duties during their purported rest periods, including, but not limited to completing time-sensitive demands, reviewing and completing documentation, operating machinery, engaging in meetings with supervisors and employees, and completing assigned tasks.

77. As a result, Defendants failed to provide, authorize, or permit Plaintiff and the other class members to take a full, uninterrupted, off-duty rest period for every shift lasting three and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed to make a good faith effort to authorize, permit, and provide such rest breaks in the middle of each work period.

78. During the relevant time period, Defendants willfully required Plaintiff and the other class members to work during rest periods and failed to pay Plaintiff and the other class members the full rest period premium for work performed during rest periods.

79. During the relevant time period, Defendants failed to pay Plaintiff and the other class members the full rest period premium due pursuant to California Labor Code section 226.7.

80. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

81. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

82. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 81, and each and every part thereof with the same force and effect as though fully set

1 forth herein.

2 83. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1
3 provide that the minimum wage to be paid to employees, and the payment of a lesser wage
4 than the minimum so fixed is unlawful.

5 84. During the relevant time period, Defendants failed to pay minimum wage to
6 Plaintiff and the other class members as required, pursuant to California Labor Code sections
7 1194, 1197, and 1197.1.

8 85. During the relevant time period, Plaintiff and the other class members were
9 required to perform job duties off-the-clock, including, but not limited to, gathering necessary
10 tools, engaging in scheduling discussions, donning and doffing uniforms and/or protective
11 gear, completing time-sensitive demands, reviewing and completing documentation, operating
12 machinery, engaging in meetings between supervisors and employees, and completing
13 assigned tasks.

14 86. During the relevant time period, Plaintiff and the other class members were not
15 compensated at the minimum wage for the time they spent performing job duties off-the-clock.

16 87. Defendants' failure to pay Plaintiff and the other class members the minimum
17 wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to
18 those sections Plaintiff and the other class members are entitled to recover the unpaid balance
19 of their minimum wage compensation as well as interest, costs, and attorney's fees, and
20 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

21 88. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class
22 members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each
23 employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
24 minimum wages.

25 89. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class
26 members are entitled to recover liquidated damages in an amount equal to the wages
27 unlawfully unpaid and interest thereon.

28 ///

FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201 and 202)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

90. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 89, and each and every part thereof with the same force and effect as though fully set forth herein.

91. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

92. During the relevant time period, Plaintiff and the other class members were required to perform job duties off-the-clock, including, but not limited to, gathering necessary tools, engaging in scheduling discussions, donning and doffing uniforms and/or protective gear, completing time-sensitive demands, reviewing and completing documentation, operating machinery, engaging in meetings between supervisors and employees, and completing assigned tasks.

93. During the relevant time period, Plaintiff and the other class members were not compensated at the minimum wage for the time they spent performing job duties off the clock.

94. During the relevant time period, Plaintiff and the other class members were not paid overtime wages owed to them for all the time they spent performing job duties off the clock in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work.

95. During the relevant time period, Plaintiff and the other class members were required to perform work duties, including, but not limited to, completing time-sensitive demands, reviewing and completing documentation, operating machinery, engaging in

1 meetings between supervisors and employees, and completing assigned tasks, which resulted
2 in late, short, and/or interrupted meal periods.

3 96. During the relevant time period, Plaintiff and the other class members' rest
4 periods were missed, short, late, and/or interrupted because Defendant required them to
5 perform work duties, including, but not limited to, completing time-sensitive demands,
6 reviewing and completing documentation, operating machinery, engaging in meetings with
7 supervisors and employees, and completing assigned tasks.

8 97. During the relevant time period, Plaintiff and the other class members were not
9 paid the full meal period premium for work performed during meal periods, which were due
10 pursuant to California Labor Code section 226.7.

11 98. During the relevant time period, Plaintiff and other class members were not paid
12 the full rest period premium for work performed during rest periods, which were due pursuant
13 to California Labor Code section 226.7.

14 99. As a result, during the relevant time period, Plaintiff and the other class
15 members did not receive all of their wages, earned and unpaid, within seventy-two (72) hours
16 of leaving Defendants' employ.

17 100. During the relevant time period, Defendants intentionally and willfully failed to
18 pay Plaintiff and the other class members who are no longer employed by Defendants their
19 wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

20 101. Defendants' failure to pay Plaintiff and the other class members who are no
21 longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72)
22 hours of their leaving Defendants' employ, is in violation of California Labor Code sections
23 201 and 202.

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

28 ///

103. Plaintiff and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

104. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 103, and each and every part thereof with the same force and effect as though fully set forth herein.

105. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments 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 or a 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.

106. Defendants have intentionally and willfully failed to provide Plaintiff and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the accurate total number of hours worked by Plaintiff and the other class members.

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107. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff and the other class members have suffered injury and damage to their statutorily-protected rights.

108. More specifically, Plaintiff and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

109. Plaintiff and the other class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

110. Plaintiff and the other class members are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h).

SEVENTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2800 and 2802)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

111. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 110, and each and every part thereof with the same force and effect as though fully set forth herein.

112. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

113. Plaintiff and the other class members incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including, but not limited to the use of personal phones for business-related matters, the cost of purchasing equipment, footwear, and protective gear for business-related matters, and the cost of purchasing apparel in compliance with the dress code..

114. Defendants have intentionally and willfully failed to reimburse Plaintiff and the other class members for all necessary business-related expenses and costs.

115. Plaintiff and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

EIGHTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, et seq.)

(Against MYERS POWER PRODUCTS, INC. and DOES 1 through 100)

116. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 115, and each and every part thereof with the same force and effect as though fully set forth herein.

117. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

118. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, et seq.

119. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and

practices of failing to timely pay wages to Plaintiff and the other class members violate California Labor Code sections 201, 202 and 204. Defendants also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

120. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

121. Plaintiff and the other class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

122. Pursuant to California Business & Professions Code sections 17200, et seq., Plaintiff and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences July 10, 2015; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

DEMAND FOR JURY TRIAL

Plaintiff, individually, and on behalf of other members of the general public similarly situated, requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of other members of the general public similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representative of the Class;
3. That counsel for Plaintiff be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

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As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and the other class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and

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

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiff and the other class members;

11. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to California Labor Code section 226.7(c);

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

16. For such other and further relief as the Court may deem just and proper.

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As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff and the other class members;

18. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(c);

21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

22. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the other class members;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff and the other class members in the amount as may be established according to proof at trial;

26. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

28. For liquidated damages pursuant to California Labor Code section 1194.2; and

29. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff and the other class members no longer employed by Defendants;

31. For all actual, consequential, and incidental losses and damages, according to proof;

32. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff and the other class members who have left Defendants' employ;

33. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

34. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

36. For actual, consequential and incidental losses and damages, according to proof;

37. For statutory penalties pursuant to California Labor Code section 226(e);

38. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and

39. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

40. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

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41. For actual, consequential and incidental losses and damages, according to proof;
42. For the imposition of civil penalties and/or statutory penalties;
43. For reasonable attorneys' fees and costs of suit incurred herein; and
44. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

45. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

46. For restitution of unpaid wages to Plaintiff and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

47. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, et seq.;

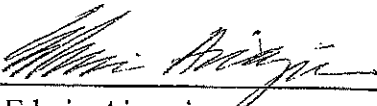
48. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

49. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, et seq.; and

50. For such other and further relief as the Court may deem just and proper.

Dated: December 19, 2019

LAWYERS for JUSTICE, PC

By: 
Edwin Aiwanian
Attorneys for Plaintiff

NOTICE OF CLASS ACTION SETTLEMENT

Andres Casas v. Myers Power Products, Inc.
Superior Court of California for the County of San Bernardino, Case No. CIVDS1920109

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the Class Settlement, object to the Class Settlement, and/or dispute the number of Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Andres Casas (“Plaintiff”) and Defendant Myers Power Products, Inc. (“Defendant”) (Plaintiff and Defendant are collectively referred to as the “Parties”) in the case entitled *Andres Casas v. Myers Power Products, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1920109 (“Action”), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] (“Final Approval Hearing”) to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

“**Class**” means all current and former non-exempt, hourly-paid employees employed by Defendant, who are working or who worked in the State of California at any time during the time period from July 10, 2015 through and including [date of Preliminary Approval], and expressly excluding therefrom any individual, who as of [date of Preliminary Approval], has filed a separate lawsuit of any type as a name plaintiff against Defendant, alleging the same or similar claims being released by the Settlement and/or who has previously released such claims.

“**Class Member**” means a member of the Class.

“**Class Period**” means the period from July 10, 2015 through and including [date of Preliminary Approval].

“**Class Settlement**” means the settlement and resolution of all Released Class Claims (described in Section III.D below).

“**Aggrieved Employees**” means all current and former non-exempt, hourly-paid employees employed by Defendant, who are working or who worked in the State of California at any time during the time period from July 10, 2018 through and including [date of Preliminary Approval].

“**PAGA Period**” means the period from July 10, 2018 through and including [date of Preliminary Approval].

“**PAGA Settlement**” means the settlement and resolution of all Released PAGA Claims (described in Section III.D below).

II. BACKGROUND OF THE LAWSUIT

On July 10, 2019, Plaintiff Andres Casas commenced a putative class action lawsuit by filing the Class Action Complaint for Damages in the San Bernardino County Superior Court, Case No. CIVDS1920109. On December 20, 2019, Plaintiff filed the First Amended Class Action Complaint for Damages. On December 28, 2021, Plaintiff provided written notice to the California Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific provisions of the California Labor Code that Plaintiff contends were violated (“LWDA Notice”). On [date of Preliminary Approval], Plaintiff filed the Second Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq (“Operative Complaint”). Plaintiff alleges that Defendant failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide accurate wage statements, keep requisite payroll records, reimburse business expenses, and thereby engaged in unfair business practices in violation

of California Business & Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under California Labor Code section 2698, *et seq.* (“PAGA”). Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys’ fees and costs.

Defendant denies all of the allegations in the Action or that it violated any law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Stipulation for Leave to File Second Amended Complaint and Class Action and PAGA Settlement and Release of Claims (“Settlement” or “Settlement Agreement”).

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Simpluris, Inc. as the administrator of the Settlement (“Settlement Administrator”), Plaintiff Andres Casas as representative of the Class (“Class Representative”), and the following Plaintiff’s attorneys as counsel for the Class (“Class Counsel”):

Edwin Aiwarzian
Arby Aiwarzian
Joanna Ghosh
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are an Aggrieved Employee, you do not need to take any action to receive an Individual PAGA Payment.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff, Class Members, or Aggrieved Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members and Aggrieved Employees. The Court has made no ruling on the merits of the claims asserted in the Action and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is Four Million One Hundred Thousand Dollars (\$4,100,000) (the “Gross Settlement Fund”). The portion of the Gross Settlement Fund that is available for payment to Class Members is referred to as the “Net Settlement Fund.” The Net Settlement Fund will be the Gross Settlement Fund less the following payments which are subject to approval by the Court: (1) attorneys’ fees, in an amount up to 35% of the Gross Settlement Fund (i.e., up to \$1,435,000) and reimbursement of reasonable litigation costs and expenses in an amount up to Fifty Thousand Dollars (\$50,000) (collectively, “Attorneys’ Fees and Costs”) to Class Counsel; (2) Enhancement Award in an amount up to Ten Thousand Dollars (\$10,000) to Plaintiff for his services in the Action; (3) the amount of One Hundred Fifty Thousand Dollars (\$150,000) allocated toward civil penalties under the Private Attorneys General Act (“PAGA Amount”); and (4) Settlement Administration Costs in an amount presently projected not to exceed Fifteen Thousand Dollars (\$15,000) to the Settlement Administrator. The PAGA Amount will be distributed 75% to the LWDA (i.e., \$112,500) (“LWDA Payment”) and the remaining 25% (i.e., \$37,500) will be distributed to Aggrieved Employees (“Aggrieved Employees Payment”).

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Fund (“Individual Settlement Share”) based on the number of weeks worked by each Class Member for Defendant as a non-exempt, hourly-paid employee in California during the Class Period (“Workweeks”).

The Settlement Administrator has multiplied the Net Settlement Fund by a fraction, the numerator of which is the Class Member's individual number of Workweeks, and the denominator of which is the total number of Workweeks of all Class Members, to yield the Class Member's estimated Individual Settlement Share he or she may be eligible to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion ("Participating Class Members") will be issued payment of their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as twenty percent 20% wages ("Wages Portion"), 20% civil or statutory penalties, 30% statutory and other non-wage damages, and 30% interest. The penalties, statutory and other non-wage damages, and interest portions are collectively referred to as "Non-Wage Portions." The Wages Portion will be reported on an IRS Form W-2 and the Non-Wage Portions will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee's share of taxes and withholdings with respect to the Wages Portion of the Individual Settlement Share (the net payment is referred to as "Individual Settlement Payment"). The employer's share of payroll taxes and contributions with respect to the wages portion of Individual Settlement Shares shall be paid by Defendant separately and in addition to the Gross Settlement Fund.

Aggrieved Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the Aggrieved Employees Payment ("Individual PAGA Payment") based on the number of pay periods worked by each Aggrieved Employee for Defendant as a non-exempt, hourly-paid employee in California during the PAGA Period ("Pay Periods").

The Settlement Administrator has multiplied the Aggrieved Employees Payment by a fraction, the numerator of which is the Aggrieved Employee's individual number of Pay Periods, and the denominator of which is the total number of Pay Periods of all Aggrieved Employees, to yield the Aggrieved Employee's estimated Individual PAGA Payment he or she may be eligible to receive under the PAGA Settlement (which is listed in Section III.C below).

Each Individual PAGA Payment will be allocated as 100% penalties, which will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Participating Class Members and Individual PAGA Payments will be mailed to Aggrieved Employees at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks Based on Defendant's Records

According to Defendant's records, you are credited as having worked [REDACTED] Workweeks.

If you wish to dispute the Workweeks credited to you, you must submit a written dispute ("Workweeks Dispute") to the Settlement Administrator, which must: (i) include your full name, current mailing address, telephone number, signature, and last four digits of your Social Security number; (ii) include the case name and number of the Action (*Andres Casas v. Myers Power Products, Inc.*, Case No. CIVDS1920109); (iii) include a statement indicating that you seek to dispute the number of Workweeks credited to you, the time period(s) you worked for Defendant in a non-exempt, hourly-paid position in California during the Class Period, and the number of Workweeks that you contend should be credited to you; (iv) include documentation and/or other facts supporting your position; and (v) be submitted by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked on or before [Response Deadline].

C. Your Estimated Individual Settlement Share and Individual PAGA Payment

As explained above, your estimated Individual Settlement Share is based on the number of Workweeks credited to you and your estimated Individual PAGA Payment is based on the number of Pay Periods credited to you.

**Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$[REDACTED].
The Individual Settlement Share is subject to reduction for the employee's share of taxes and**

withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED].

The settlement approval process may take multiple months. Your Individual Settlement Share and/or Individual PAGA Payment (if applicable) reflected in this Notice is only an estimate. Your actual Individual Settlement Share and Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon occurrence of the Effective Date and full funding of the Gross Settlement Fund, Plaintiff and the Participating Class Members will release the Released Parties of and from the Released Class Claims. To the extent required under applicable law, Participating Class Members who cash, deposit, or otherwise negotiate their Individual Settlement Payment will be deemed to have opted-in to the Action for purposes of the release of Released Class Claims arising under the FLSA.

Upon the occurrence of the Effective Date and full funding of the Gross Settlement Fund, the LWDA and the Aggrieved Employees will release the Released Parties of and from the Released PAGA Claims.

“Released Class Claims” means any and all allegations, claims, debts, rights, demands, charges, complaints, actions, causes of action, guarantees, costs, expenses, attorneys’ fees, economic damages, non-economic damages, restitution, civil penalties, statutory penalties, liquidated damages, punitive damages, interest, obligations, liabilities, or other monies and remedies, of any and every kind, contingent or accrued, that have been or reasonably could have been alleged or asserted in any of the pleadings filed in the Action based on the factual and/or legal violations alleged therein, including the Operative Complaint, arising during the period from July 10, 2015 through the date the Court enters the Final Approval Order and Judgment, including, without limitation, for failure to pay minimum, overtime or other wages, failure to provide and/or record meal periods and/or pay associated premiums, failure to authorize and permit rest periods and/or pay associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination of employment, failure to provide accurate itemized wage statements, failure to keep and maintain accurate timekeeping and/or payroll records, failure to reimburse employment-related or business expenses, failure to provide one day’s rest in a seven-day workweek, violation of the California Unfair Competition Law (California Business and Professions Code §§ 17200 *et seq.*), and/or violation of the federal Fair Labor Standards Act (“FLSA”), based in whole or in part on any direct or imputed violation of any federal, state, local or administrative constitution, charter, law, rule, regulation or ordinance.

“Released PAGA Claims” any and all allegations, claims, debts, rights, demands, charges, complaints, actions, and causes of action for civil penalties of any and every kind, contingent or accrued, that have been or reasonably could have been alleged or asserted in any of the pleadings filed in the Action and in any notice sent to the LWDA pursuant to PAGA based on the factual and/or legal violations allegations contained therein, including the Operative Complaint and the LWDA Notice that was submitted to the LWDA on December 28, 2021 pursuant to the Settlement, arising during the period from July 10, 2018 through the date the Court enters the Final Approval Order and Judgment, including, without limitation, for failure to pay minimum, overtime or other wages, failure to provide and/or record meal periods and/or pay associated premiums, failure to authorize and permit rest periods and/or pay associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination of employment, failure to provide accurate itemized wage statements, failure to keep and maintain accurate timekeeping and/or payroll records, failure to reimburse employment-related or business expenses, failure to provide one day’s rest in a seven-day workweek.

“Released Parties” means Defendant and each of its respective past, present and future affiliates, parent companies, subsidiaries, shareholders, officers, partners, directors, members, owners, servants, employees, employers, agents, contractors, attorneys, insurers, predecessors, representatives, accountants, executors, successors, and assigns, and each and all of their respective shareholders, officers, partners, directors, members, owners, servants, employees, employers, agents, contractors, attorneys, insurers, predecessors, representatives, accountants, executors, successors, and assigns, and past, present and future pension, profit sharing, retirement savings, health and welfare, and any other employee benefit plans of any nature and the respective trustees, administrators, sponsors, fiduciaries, successors, agents, and employees of all such plans, and all persons acting under, by, through, or in concert with any of them.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount up to thirty-five percent (35%) of the Gross Settlement Fund (i.e., up to \$1,435,000) and reimbursement of reasonable litigation costs and expenses in an amount up to Fifty Thousand Dollars

(\$50,000) (collectively, “Attorneys’ Fees and Costs”), subject to approval by the Court. The Attorneys’ Fees and Costs granted by the Court will be paid from the Gross Settlement Fund. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and Aggrieved Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Award to Plaintiff

Plaintiff will seek the amount of Ten Thousand Dollars (\$10,000) (“Enhancement Award”), in recognition of his services in connection with the Action. The Enhancement Award will be paid from the Gross Settlement Fund, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Fifteen Thousand Dollars (\$15,000) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Objections, and Workweeks Disputes, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Fund, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims described in Section III.D above.

If you are an Aggrieved Employee, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims described in Section III.D above.

Class Members and Aggrieved Employees will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless they retain their own counsel, in which event they will be responsible for their own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

A Class Member may request to opt out of and be excluded from the Class Settlement by submitting a written request (“Request for Exclusion”) to the Settlement Administrator, which must: (i) include the full name, current mailing address, telephone number, signature, and last four digits of the Social Security number of the Class Member seeking exclusion; (ii) include the case name and number of the Action (*Andres Casas v. Myers Power Products, Inc.*, Case No. CIVDS1920109); (iii) include a statement that the Class Member seeks to be excluded from the Class Settlement which is the same or substantially similar to the following language: **“I elect to opt-out of the *Casas v. Myers Power Products, Inc.* class action settlement. I understand that by doing so, I will not participate in the class settlement, and will not receive payment of an Individual Settlement Share”**; and (iv) be submitted by mail to the Settlement Administrator at the specified address below, postmarked on or before **[Response Deadline]**.

[Settlement Administrator]

[Mailing Address]

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be entitled to receive an Individual Settlement Payment, will not be bound by the release of Released Class Claims

(described in Section III.D above), and will not have any right to object to, appeal, or comment on the Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Participating Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. Aggrieved Employees will be bound to the PAGA Settlement and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

A Class Member may object to the Class Settlement, as long as he or she had not submitted a Request for Exclusion (i.e., he or she is a Participating Class Member), by submitting a written objection (“Objection”) to the Settlement Administrator, which must: (i) include the full name, current mailing address, telephone number, signature, and last four digits of the Social Security number of the objecting Class Member; (ii) include the case name and number of the Action (*Andres Casas v. Myers Power Products, Inc.*, Case No. CIVDS1920109); (iii) include a statement indicating the legal and factual grounds for the objection; (iv) include a statement indicating whether the objecting Class Member is represented by counsel and identifying any such counsel; (v) include a statement indicating whether the objecting Class Member intends to appear for and wishes to be heard at the Final Approval Hearing; and (vi) be submitted by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked on or before [Response Deadline].

Participating Class Members will also have the right to appear at the Final Approval Hearing in order to orally present objections to the Court, whether or not they have submitted a written objection.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department S26 of the San Bernardino County Superior Court, located at San Bernardino Justice Center, 247 West 3rd St., San Bernardino, CA 92415, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys’ Fees and Costs to Class Counsel, Enhancement Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to. Personal appearances and telephonic appearances are an option.

Please visit the Court’s website for the most up-to-date information regarding the impact of COVID-19 on the operations of the Court and any requirements that may apply for accessing Court facilities: <https://www.sb-court.org/>

Information about appearing remotely is available by calling 888-882-6878 or online at: <https://www.sb-court.org/general-information/remote-access>. Please note that there may be deadlines to reserve a telephonic or remote appearance and fees or charges may apply.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action by visiting the Civil Division of the Superior Court of California, County of San Bernardino, 247 West Third Street, San Bernardino, CA 92415, during business hours, or by online by visiting the following website: <https://cap.sb-court.org/search>. Fees and other charges may apply in order to obtain copies of court records.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.