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FILED
 Superior Court of California
 County of Los Angeles
 02/22/2022

Sherri R. Carter, Executive Officer / Clerk of Court
 By: C. Gomez Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES**

RIGOBERTO JIMENEZ, as an individual, and on
 behalf of all others similarly situated,

Plaintiff,

vs.

CUSTOM FIBREGLASS MANUFACTURING
 CO. D/B/A SNUGTOP, a California corporation;
 and DOES 1 through 100,
 Defendants.

Case No.: 21STCV45624

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

- (1) **FAILURE TO PAY ALL OVERTIME WAGES (LABOR CODE §§ 204, 510, 558, 1194, 1198);**
- (2) **FAILURE TO PAY ALL MINIMUM WAGES OWED (LABOR CODE §§ 1182.12, 1194, 1194.2, 1197);**
- (3) **MEAL PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 512);**
- (4) **REST PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 516);**
- (5) **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS (LABOR CODE § 226 *et seq.*);**
- (6) **WAITING TIME PENALTIES (LABOR CODE §§ 201-203); AND**
- (7) **UNFAIR COMPETITION (BUS & PROF CODE § 17200 *et seq.*)**
- (8) **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE §2698 *et seq.*)**

**DEMAND FOR JURY TRIAL
 UNLIMITED CIVIL CASE**

1 Plaintiff Rigoberto Jimenez (“Plaintiff”), on behalf of himself and all others similarly
2 situated, hereby brings this Class Action Complaint (“Complaint”) against Defendant Custom
3 Fibreglass Manufacturing Co. d/b/a Snugtop, a California corporation, and DOES 1 to 100,
4 inclusive (collectively, “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 Complaint for recovery of unpaid wages and penalties under California Business & Professions
8 Code § 17200 *et. seq.*, Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194,
9 1194.2, 1197, 1198 and 2698 *et seq.*, and Industrial Welfare Commission Wage Order No. 1
10 (“Wage Order 1”), in addition to seeking injunctive relief, declaratory relief, and restitution.

11 2. This Complaint is brought pursuant to California Code of Civil Procedure § 382.
12 The monetary damages and restitution sought by Plaintiff exceed the minimal jurisdictional limits
13 of the Superior Court and will be established according to proof at trial.

14 3. This Court has jurisdiction over Defendants because, upon information and belief,
15 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
16 themselves to the California market so as to render the exercise of jurisdiction over them by the
17 California courts consistent with the traditional notions of fair play and substantial justice.

18 **VENUE**

19 4. Venue as to each Defendant is proper in this judicial district pursuant to Cal. Code
20 of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of
21 hereon occurred in Los Angeles County. Defendants own, maintain offices, transact business,
22 have agent(s) within Los Angeles County, and/or otherwise are found within Los Angeles County,
23 and Defendants are within the jurisdiction of this Court for purposes of service of process.

24 **PARTIES**

25 5. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
26 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
27 the filing of the Complaint in this action and within the statute of limitations periods applicable
28 to each cause of action herein, Plaintiff was employed by Defendants. Plaintiff was, and is, a

1 victim of Defendants' policies and/or practices complained of herein, lost money and/or property,
2 and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 226, 226.7, 510, 512,
3 516, 558, 1182.12, 1194, 1194.2, 1197, 1198 *et eq.*; Business & Professions Code § 17200 *et seq.*
4 and Wage Order 1, which sets employment standards for the manufacturing industry.

5 6. Plaintiff is informed and believes, and based thereon alleges, that during the four
6 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
7 continue to do) business by manufacturing truck caps, camper shells, and related accessories.
8 Defendants employed Plaintiff in Los Angeles County and the state of California and, therefore,
9 were (and are) doing business in Los Angeles County and the State of California.

10 7. The true names, identities and capacities, whether individual, corporate, associate
11 or otherwise, of Defendants Does 1 through 100 are unknown to Plaintiff at this time, who
12 therefore sues said defendants by such fictitious names pursuant to Cal. Code of Civil Procedure
13 § 474. Upon ascertaining the true and correct names, titles, capacities and/or identities of the
14 defendants designated herein as a Doe, Plaintiff will amend this Complaint accordingly.

15 8. Plaintiff is informed and believes, and thereon alleges, that all of the Defendants
16 herein, however designated, whether by real or fictitious name, were and are in some manner
17 responsible for the events, happenings, occurrences and instrumentalities upon and about which
18 complaint is hereinafter made.

19 9. Plaintiff is further informed and believes, and thereon alleges, that each of the
20 Defendants herein, whether designated by real or fictitious names, are, and at all times relevant
21 hereto, were the agent, servant, employee and hireling of each of the co-Defendants and in doing
22 the things and acts herein alleged and complained of or in failing to do that which they should
23 have done, were acting within the course and scope of such employment, agency and hiring with
24 the full knowledge, consent, approval and ratification of each of the other co-Defendants.

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

GENERAL FACTUAL ALLEGATIONS

11. Plaintiff worked for Defendants as a non-exempt employee from approximately 1990 to May 2021, at Defendants' Long Beach manufacturing facility. Over the course of his employment Plaintiff worked for Defendants as a "chopper operator" as well as a "laminator."

12. During at least a portion of the relevant time period, Defendants utilized a timekeeping system which resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked, by rounding, time-shaving, or otherwise. Specifically, although Plaintiff and other non-exempt employees recorded their hours worked using a hand scanner that recorded their hours worked to the minute, Defendants regularly, systematically, and impermissibly rounded, shaved, or otherwise altered the time worked by Plaintiff and other non-exempt employees in Defendants' favor, such that the time shaving/rounding practice utilized by Defendants was not even-handed over time and would round and shave in Defendants' favor such that Plaintiff and other non-exempt employees were routinely underpaid for their time worked. Due to Defendants' timekeeping policies and practices that fail to compensate for all hours worked, Plaintiff and other non-exempt employees were deprived of all required minimum wages. Further, on occasions when Plaintiff and other non-exempt employees worked over eight hours in a day and/or forty hours in a workweek, this process of time-shaving or rounding also deprived them of all overtime wages owed. Based on the foregoing, Plaintiff and other non-exempt employees were not compensated for all required minimum and overtime wages.

13. Defendants required Plaintiff and other non-exempt employees to work four 10-hour shifts per workweek, pursuant to a purported alternative workweek schedule ("AWS"). However, upon information and belief, the AWS was not properly instituted because, among other things, prior to any purported AWS election Defendants failed to follow the notice/disclosures procedures required by Wage Order 1, § 3(C), including (but not limited to) by failing to provide proper written notice/disclosure regarding the AWS to Plaintiff and other non-exempt employees and/or failing to provide written notice/disclosure regarding the AWS in Spanish, even though at least 5% of Defendants' workforce primarily speak Spanish. As a result of its failure to properly institute an AWS, Defendants have improperly failed to pay Plaintiff and other non-exempt

employees time-and-a-half for all overtime hours worked (including hours worked over 8 in a workday), resulting in unpaid overtime wages.

14. Plaintiff and other non-exempt employees also were not provided by Defendants with legally compliant meal periods due to Defendants' meal period policies/practices, which have frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and missed meal periods. In addition, Defendants failed to provide Plaintiff or other non-exempt employees with second meal periods on shifts over 10.0 hours. On those occasions when Plaintiff was not provided with all legally-required meal periods to which he was entitled, Defendants failed to compensate Plaintiff with the required meal period premium for each workday in which he experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Defendants maintained no payroll code for paying meal period premiums under Labor Code § 226.7.

15. Defendants have also failed to authorize and permit all required rest periods for Plaintiff and other non-exempt employees. Specifically, Defendants have often failed to authorize and permit a net 10-minute rest period for every four hours worked or major fraction thereof, and Plaintiff and other employees often have had to take short (less than 10 minutes) rest periods, due to their workload. Despite failing to authorize and permit Plaintiff and other non-exempt employees to take all rest periods to which they are entitled, upon information and belief, during at least a portion of the relevant time period, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code section 226.7 and did not pay Plaintiff or other non-exempt employees any rest period premiums.

16. As a result of Defendants' failure to pay all overtime and minimum wages, and meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees.

17. As a further result of Defendants' failure to pay all overtime wages, minimum wages, and meal and rest period premium wages, Defendants failed to pay all wages to Plaintiff and other formerly-employed non-exempt employees at the separation of their employment.

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CLASS ACTION ALLEGATIONS

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

- a. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping practices and/or subject to Defendants' purported alternative workweek schedule, and worked in excess of 8 hours in a work day and/or in excess of 40 hours in a work week, during the four years preceding the filing of this action through the present.
- b. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping practices during the four years preceding the filing of this action through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 5.0 hours and/or worked at least one shift in excess of 10.0 hours, during the four years preceding the filing of this action through the present.
- d. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 3.5 hours, during the four years preceding the filing of this action through the present.
- e. The Wage Statement Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class and/or Rest Period Class, who received a wage statement during the one year preceding the filing of this lawsuit through the present.
- f. The Waiting Time Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class whose employment with Defendants ended during the three years preceding the filing of this action through the present.

19. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes and subclasses are unknown to Plaintiff at this time; however, it is estimated that the Class

Members number greater than one hundred (100) individuals as to each Class. The identity of such membership is readily ascertainable via inspection of Defendants' records.

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

- i. Whether Defendants violated the applicable Labor Code provisions including, but not limited to, §§ 510 and 1194, by requiring overtime work and not paying for said work according to the overtime laws of the State of California;
- ii. Whether Plaintiff and members of the Minimum Wage Class were compensated for all hours worked;
- iii. Whether Defendants' meal period policies/practices have failed to provide Meal Period Class members of all legally required meal periods;
- iv. Whether Defendants' rest period policies/practices have failed to authorize and permit Rest Period Class members all legally required rest periods;
- v. Whether Defendants provided meal or rest period premium payments for non-compliant meal and/or rest periods;
- vi. Whether Defendants issued accurate itemized wage statements to Wage Statement Class members pursuant to Labor Code § 226; and
- vii. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of their separation of employment.

21. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as their failure to pay overtime wages, failure to pay minimum wages, failure to implement lawful meal and/or rest period policies and practices, failure to provide accurate itemized wage statements and failure to pay all final wages. As such, these common questions predominate over individual questions concerning

each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

22. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Defendants employed Plaintiff in California as a non-exempt employee during the time periods relevant to each of the claims pled herein. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all overtime wages for all hours worked, deprived of minimum wages for all hours worked, was not provided with all required meal periods, was not authorized and permitted all required rest periods, did not receive premium pay for meal and rest period violations, was not furnished with accurate itemized wage statements, and did not receive all earned wages at the termination of his employment.

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

24. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee was required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual Plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by

employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

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

26. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked, and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

27. At all times relevant herein, Defendants are required to properly compensate non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay” for work in excess of 8 hours per work day and/or in excess of 40 hours of work in the workweek. Wage Order 1, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of 12 hours each work day and/or for work in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff and Overtime Class members to work overtime and/or double-time hours, but did not

1 compensate them at one and one-half times their regular rate of pay (or two times the regular rate
2 of pay for double-time hours) for such hours.

3 28. The foregoing policies and practices are unlawful and create entitlement to
4 recovery by Plaintiff in a civil action for the unpaid amount of overtime wages owing, including
5 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to California
6 Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, and Code of Civil Procedure § 1021.5.

7 **SECOND CAUSE OF ACTION**

8 **MINIMUM WAGE VIOLATIONS**

9 **(AGAINST ALL DEFENDANTS)**

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

11 30. This cause of action is brought pursuant to Labor Code §§ 204, 558, 1182.12,
12 1194, 1194.2, 1197 and 1198 which provide that all non-exempt employees are entitled to all
13 minimum wages for all hours worked, and provide a private right of action for the failure to pay
14 all minimum wage compensation for all work performed.

15 31. At all relevant times, Defendants were required to compensate Plaintiff and the
16 Minimum Wage Class members for all hours worked pursuant to California Labor Code §§
17 1182.12, 1194, 1197 and 1198, and Wage Order 1. Wage Order 1, Section 4 requires an employer
18 to pay to every employee on the established payday for the period involved not less than the
19 applicable minimum wage for all hours worked in the payroll period. Defendants caused Plaintiff
20 and Minimum Wage Class members to work hours in a workweek but did not properly pay
21 Plaintiff and the Minimum Wage Class members at least minimum wages for all such hours.

22 32. At all times relevant herein, Defendants lacked good faith and had no reasonable
23 grounds for believing that their practices in failing to pay all minimum wages owed at the
24 applicable rate was not a violation of any provision of the Labor Code relating to minimum wage,
25 or an order of the Industrial Welfare Commission. Defendants, in addition to owing minimum
26 wages to Plaintiff and the members of the Minimum Wage Class, also owe liquidated damages in
27 an amount equal to the wages unlawfully unpaid, and interest thereon, pursuant to Labor Code §
28 1194.2.

33. The foregoing practices and policies are unlawful and create entitlement to recovery by Plaintiff and the Minimum Wage Class members in a civil action for the unpaid amount of minimum wages owing, including interest thereon, as well as statutory penalties, liquidated damages, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 558, 1182.12, 1194, 1194.2, 1197, and 1198, Wage Order 1, Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

35. As alleged herein, Defendants failed in their affirmative obligation to provide Plaintiff and Meal Period Class members with all legally-compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 1, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff at his respective regular rate of pay, in accordance with California Labor Code §§ 226.7, 512, and 1198.

36. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, as well as statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 218.6, 226.7, 512, 558, and 1198; Wage Order 1, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

38. Wage Order 1, § 12 and California Labor Code §§ 226.7 and 516 establish the right of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest time for each four (4) hour period worked, or major fraction thereof. This also includes a third rest period for shifts in excess of 10.0 hours.

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39. As alleged herein, Plaintiff and Rest Period Class members were not authorized to take all rest periods to which they were entitled as non-exempt employees.

40. The foregoing violations create an entitlement to recovery by Plaintiff and Rest Period Class members in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, as well as statutory penalties, civil penalties, and costs of suit according to California Labor Code §§ 226.7, 516, 558, 1198; and Civil Code §§ 3287(b) and 3289.

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS

(AGAINST ALL DEFENDANTS)

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

42. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiff and Wage Statement Class members with accurate, itemized wage statements that included, among other requirements, all hours worked, all gross wages and net wages earned, in violation of Labor Code §226(a).

43. Defendants' failure to furnish Plaintiff and Wage Statement Class members with complete and accurate, itemized wage statements resulted in injury as, *inter alia*, said failures led to them not being paid all wages due, and deprived them of the information necessary to identify discrepancies in Defendants' reported data.

44. Defendants' failures create an entitlement to Plaintiff and Wage Statement Class members in a civil action for damages and/or penalties pursuant to Labor Code § 226, including statutory penalties civil penalties, reasonable attorneys' fees, and costs according to suit pursuant to Labor Code § 226 *et seq.*

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

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

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1 46. This cause of action is brought pursuant to Cal. Labor Code §§ 201-203, which
2 require an employer to pay all wages immediately at the time of separation of employment in the
3 event the employer discharges the employee or the employee provides at least 72 hours of notice
4 of their intent to quit. In the event the employee provides less than 72 hours of notice of their
5 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
6 employee's last date of employment.

7 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
9 at their separation from employment, including unpaid overtime and minimum wages as well as
10 unpaid meal and rest period premium wages.

11 48. Further, Plaintiff is informed and believes, and based thereon alleges, that as a
12 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members
13 of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant
14 to the requirements of Cal. Labor Code §§ 201-203.

15 49. Defendants' failure to pay all final wages was willful within the meaning of Labor
16 Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
17 Time Class their earned wages upon separation from employment results in a continued payment
18 of daily wages up to thirty days from the time the wages were due.

19 50. Plaintiff and members of the Waiting Time Class are entitled to compensation
20 pursuant to Cal. Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

21 **SEVENTH CAUSE OF ACTION**

22 **UNFAIR COMPETITION**

23 **(AGAINST ALL DEFENDANTS)**

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

25 52. Defendants have engaged and continue to engage in unfair and/or unlawful
26 business practices in California in violation of California Business and Professions Code § 17200
27 et seq., by failing to pay all required overtime wages for overtime hours worked, failing to pay all
28 required minimum wages for regular hours worked, failing to provide all required meal periods,

1 failing to authorize and permit all required rest periods, failing to pay meal and rest period
2 premium wages, failing to furnish accurate itemized wage statements, and failing to pay all final
3 wages.

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

9 54. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
10 herein, Plaintiff seeks full restitution of monies, as necessary and according to proof, to restore
11 any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and
12 Professions Code §§ 17203 and 17208.

13 55. The acts complained of herein occurred within the last four years immediately
14 preceding the filing of this action.

15 56. Plaintiff was compelled to retain the services of counsel to file this Court action to
16 protect his and Class members' interests, to obtain restitution, and to enforce important rights
17 affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees
18 and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

19 **EIGHTH CAUSE OF ACTION**
20 **PRIVATE ATTORNEYS GENERAL ACT**
21 **(AGAINST ALL DEFENDANTS)**

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

23 58. Defendants have committed several Labor Code violations against Plaintiff,
24 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
25 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
26 employees, brings this representative action against Defendants to recover the civil penalties due
27 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
28 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited

1 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
2 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
3 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
4 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
5 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
6 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
7 initial violation and \$1,000.00 for each subsequent violation of Labor Code § 226, pursuant to
8 Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation
9 and \$200 for each subsequent violation per employee per pay period for those violations of the
10 Labor Code for which no civil penalty is specifically provided, based on the following Labor
11 Code violations:

- 12 a. Failing to pay Plaintiff and other aggrieved employees all earned overtime and/or
13 double-time compensation, in violation of Labor Code §§ 204, 510, 558, 1194,
14 and 1198;
- 15 b. Failing to pay Plaintiff and other aggrieved employees at least the minimum wage
16 for all hours worked, in violation of Labor Code §§ 204, 558, 1182.12, 119,
17 1194.2, 1197, and 1198;
- 18 c. Failing to provide all legally required meal periods, and failure to pay meal period
19 premium wages, to Plaintiff and other aggrieved employees at the regular rate of
20 compensation, in violation of Labor Code §§ 204, 210, 226.7, 512, 558, and 1198;
- 21 d. Failing to authorize and permit all legally required rest periods, and failure to pay
22 rest period premium wages, to Plaintiff and other aggrieved employees at the
23 regular rate of compensation, in violation of Labor Code §§ 226.7, 516, 558, and
24 1198;
- 25 e. Failing to timely pay all final wages and compensation earned by Plaintiff and
26 other aggrieved employees at the time of separation of employment, in violation
27 of Labor Code §§ 201-203;

28 ///

- 1 f. Failing to furnish Plaintiff and other aggrieved employees with complete, accurate,
2 itemized wage statements in violation of Labor Code § 226;
- 3 g. Failing to pay Plaintiff and other aggrieved employees all earned wages at least
4 twice during each calendar month in violation of Labor Code § 204; and
- 5 h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved
6 employees in violation of Labor Code § 558 and 1174.

7 59. On December 16, 2021, Plaintiff notified Defendants via certified mail, and
8 notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of
9 Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for
10 civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the
11 California Labor Code identified in Paragraph 58 (a)-(h). Now that sixty-five days have passed
12 from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not
13 provided notice that it intends to investigate the violations, Plaintiff has exhausted his
14 administrative requirements for bringing a claim under the Private Attorneys General Act with
15 respect to these violations.

16 60. Plaintiff was compelled to retain the services of counsel to file this court action to
17 protect his interests and the interests of other aggrieved employees, and to assess and collect the
18 civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which
19 he is entitled to recover under California Labor Code § 2699.

20 **PRAYER**

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

- 22 1. Upon the First Cause of Action, for compensatory, consequential, general, and
23 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 24 2. Upon the Second Cause of Action, for compensatory, consequential, general and
25 special damages and liquidated damages according to proof pursuant to Labor Code §§ 204, 558,
26 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198;
- 27 3. Upon the Third Cause of Action, for compensatory, consequential, general and
28 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

1 4. Upon the Fourth Cause of Action, for compensatory, consequential, general and
2 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

3 5. Upon the Fifth Cause of Action, for statutory wage statement penalties pursuant
4 to Labor Code § 226;

5 6. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
6 Labor Code § 203;

7 7. Upon the Seventh Cause of Action, for restitution to Plaintiff and Class members
8 of all money and/or property unlawfully acquired by Defendants by means of any acts or practices
9 declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

10 8. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other
11 aggrieved employees, and the State of California according to proof, pursuant to Labor Code §
12 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
13 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
14 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
15 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
16 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
17 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
18 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
19 violation of Lab. Code § 226 pursuant to Labor Code § 226.3 per employee per pay period; and/or
20 (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per
21 pay period for those violations of the Labor Code for which no civil penalty is specifically
22 provided, based on the Labor Code sections cited in Paragraph 58 (a)-(h) above.;

23 9. Prejudgment interest on all due and unpaid wages pursuant to California Labor
24 Code § 218.6 and Civil Code §§ 3287 and 3289;

25 10. On all causes of action, for attorneys' fees and costs as provided by Labor Code
26 §§ 226, 1194, and 2699(g), Code of Civil Procedure § 1021.5, and all other applicable statutes;
27 and

28 ///

1 11. For such other and further relief, the Court may deem just and proper.

2
3 Dated: February 22, 2022

Respectfully submitted,
HAINES LAW GROUP, APC

4
5 By: _____

Paul K. Haines
Attorneys for Plaintiff

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8 **DEMAND FOR JURY TRIAL**

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

10
11 Dated: February 22, 2022

Respectfully submitted,
HAINES LAW GROUP, APC

12
13 By: _____

Paul K. Haines
Attorneys for Plaintiff