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

MAYDA AGUIRRE and ROBERT
RODRIGUEZ, individually, and on behalf of
other members of the general public similarly
situated;;

Plaintiff,

v.

ORMCO CORPORATION, a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 22STCV12358
[Consolidated with Case No.
21STCV36034; 22PSCV00363]

**FIRST CONSOLIDATED CLASS AND
COLLECTIVE ACTION AMENDED
COMPLAINT FOR DAMAGES AND
PENALTIES**

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 and 1197 (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.*
- (9) Violation Of Labor Code § 2698 *et seq.* (Private Attorneys General Act Of 2004)

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(10) Violation of the Fair Labor Standards Act 29 U.S.C. section 201, *et seq.*

DEMAND FOR JURY TRIAL

Case No.: 22PSCV00363

MAYDA AGUIRRE, DANIEL ALCOCER,
and ROBERT RODRIGUEZ, individually,
and on behalf of aggrieved employees
pursuant to the Private Attorneys General Act
("PAGA");

Plaintiffs,

v.

ORMCO CORPORATION, a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 21STCV36034

ERIKA MORROW, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

ORMCO CORPORATION, a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Plaintiffs ERIKA MORROW, MAYDA AGUIRRE, DANIEL ALCOCER, and ROBERT RODRIGUEZ (“Plaintiffs”) hereby submit their Complaint against Defendants Ormco Corporation, and DOES 1 through 100, inclusive (collectively, Defendants), individually, and on behalf of other members of the general public similarly situated, and/or other current and former aggrieved employees of Defendants for penalties, and alleges as follows:

JURISDICTION AND VENUE

1. This class- and FLSA-collective action is brought pursuant to the California Code of Civil Procedure section 382 (with respect to the class action claims), and the collective action procedure applicable to representative claims under the Fair Labor Standards Act. The monetary damages, penalties, and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

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.

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

4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, and/or transact business in the State of California, including the County of Los Angeles. The majority of the acts and omissions alleged herein relating to Plaintiff took place in the State of California, County of Los Angeles. Defendants employed Plaintiff within the State of California, County of Los Angeles.

PARTIES

5. Plaintiff Erika Morrow is an individual residing in the State of California, County of Los Angeles. Plaintiffs Mayda Aguirre, Daniel Alcocer, and Robert Rodriguez are

1 also individuals residing in the State of California. All Plaintiffs were employed by
2 Defendants within the statutory time period.

3 6. Defendant ORMCO CORPORATION, at all times herein mentioned, was and is,
4 upon information and belief, a California corporation, and at all times herein mentioned, was
5 and is, an employer whose employees are engaged throughout the State of California,
6 including the County of Los Angeles.

7 7. At all relevant times, Defendant ORMCO CORPORATION was the “employer”
8 of Plaintiffs within the meaning of all applicable California laws and statutes, and within the
9 meaning of “employer” set forth in 29 U.S.C. section 203(d).

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

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

26 10. Defendants ORMCO CORPORATION and DOES 1 through 100 will hereinafter
27 collectively be referred to as “Defendants.”

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

CLASS ACTION ALLEGATIONS

12. Plaintiff Mayda Aguirre and Plaintiff Robert Rodriguez (“Class Plaintiffs”) bring this action on their own behalf and on behalf of all other members of the general public similarly situated, and, thus, seek class certification under Code of Civil Procedure section 382.

13. The proposed class is defined as follows:

All individuals whom Ormco employes in California at any time during the period from September 30, 2017 through November 21, 2022 who have not entered into an arbitration agreement or release agreement with Ormco.¹

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 Plaintiffs 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: Plaintiffs’ claims are typical of all other class members’ claims as demonstrated herein. Plaintiffs will fairly and adequately protect the interests of the other class members with whom they have a well-defined community of interest.

¹ For avoidance of doubt, putative class members do not include any individuals employed by a third-party staffing agency and assigned to work at Ormco’s facilities, unless those individuals became direct employees of Ormco during the class period.

1 c. Adequacy: Class Plaintiffs will fairly and adequately protect the interests
2 of each class member, with whom they have a well-defined community
3 of interest and typicality of claims, as demonstrated herein. Plaintiffs
4 have no interest that is antagonistic to the other class members. Plaintiffs'
5 attorneys, the proposed class counsel, are versed in the rules governing
6 class action discovery, certification, and settlement. Plaintiffs have
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 failed to pay their hourly-paid or non-exempt
27 employees within the State of California for all hours worked, missed
28 meal periods and rest breaks in violation of California law;

- 1 c. Whether Defendants required Class Plaintiffs and the other class
2 members to work over eight (8) hours per day and/or over forty (40)
3 hours per week and failed to pay the legally required overtime
4 compensation to Class Plaintiffs and the other class members;
- 5 d. Whether Defendants properly calculated the regular rate for Class
6 Plaintiffs and the other class members to worked overtime and earned
7 incentive pay;
- 8 e. Whether Defendants deprived Class Plaintiffs and the other class
9 members of meal and/or rest periods or required Class Plaintiffs and the
10 other class members to work during meal and/or rest periods without
11 compensation;
- 12 f. Whether Defendants failed to pay minimum wages to Class Plaintiffs and
13 the other class members for all hours worked;
- 14 g. Whether Defendants failed to pay all wages due to Class Plaintiffs and
15 the other class members within the required time upon their discharge or
16 resignation;
- 17 h. Whether Defendants failed to timely pay all wages due to Class Plaintiffs
18 and the other class members during their employment;
- 19 i. Whether Defendants complied with wage reporting as required by the
20 California Labor Code, including, inter alia, section 226;
- 21 j. Whether Defendants failed to reimburse Class Plaintiffs and the other class
22 members for necessary business-related expenses and costs;
- 23 k. Whether Defendants' conduct was willful or reckless;
- 24 l. Whether Defendants engaged in unfair business practices in violation of
25 California Business & Professions Code section 17200, *et seq.*;
- 26 m. The appropriate amount of damages, restitution, and/or monetary
27 penalties resulting from Defendants' violation of California law; and
- 28 n. Whether Class Plaintiffs and the other class members are entitled to

1 compensatory damages pursuant to the California Labor Code.

2 **REPRESENTATIVE ALLEGATIONS**

3 17. Class Plaintiffs have a well-defined community of interest in the questions of
4 law and fact in this case. The claims of the representative Class Plaintiffs are typical of the
5 claims of those similarly situated. Thus, the named Class Plaintiffs will fairly and adequately
6 reflect and represent the interests of those similarly situated and have retained counsel
7 competent and experienced in class action and FLSA.

8 18. There is no conflict as to the individually named Class Plaintiffs and other
9 members of the class or collective with respect to this action or with respect to the claims for
10 relief set forth herein.

11 **GENERAL ALLEGATIONS**

12 19. During the relevant time period set forth herein, Defendants employed Plaintiffs
13 and other persons as hourly-paid or non-exempt employees within the State of California.

14 20. Defendants, jointly and severally, employed Plaintiffs as hourly-paid non-
15 exempt employees during the relevant time period in the State of California, including in the
16 County of Los Angeles.

17 21. Defendants had the authority to hire and terminate Plaintiffs and the other class
18 members; to set work rules and conditions governing Plaintiffs' and other class members'
19 employment; and to supervise their daily employment activities.

20 22. Defendants exercised sufficient authority over the terms and conditions of
21 Plaintiffs' and other class members' employment for them to be joint employers of Plaintiffs
22 and the other class members.

23 23. Defendants directly hired and paid wages and benefits to Plaintiffs and the other
24 class members.

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

27 25. Plaintiffs and the other class members worked over eight (8) hours in a day,
28 and/or forty (40) hours in a week during their employment with Defendants.

1 26. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid
3 or non-exempt employees within the State of California. This scheme involved, inter alia,
4 failing to pay them for all hours worked, missed meal periods, and missed rest breaks in
5 violation of California law.

6 27. Plaintiffs are informed and believe, and based thereon allege, that Defendants
7 knew or should have known that Plaintiffs and the other class members were entitled to receive
8 certain wages for overtime compensation and that Plaintiffs and the other class members were
9 not receiving wages for overtime compensation.

10 28. Plaintiffs are informed and believe, and based thereon allege, that Defendants
11 failed to provide Plaintiffs and the other class members the required rest and meal periods
12 during the relevant time period as required under the Industrial Welfare Commission Wage
13 Orders and thus they are entitled to any and all applicable penalties.

14 29. Plaintiffs are informed and believe, and based thereon allege, that Defendants
15 knew or should have known that Plaintiffs and the other class members were entitled to receive
16 all timely and complete meal periods or payment of one additional hour of pay at Plaintiffs'
17 and the other class members' regular rate of pay when a meal period was missed, late or
18 interrupted, and that Plaintiffs and the other class members did not receive all timely and
19 proper meal periods or payment of one additional hour of pay at their regular rate of pay when
20 a meal period was missed.

21 30. Plaintiffs are informed and believe, and based thereon allege, that Defendants
22 knew or should have known that Plaintiffs and other class members were entitled to receive
23 all timely rest periods without interruption or payment of one additional hour of pay at
24 Plaintiffs' and the other class members' regular rate of pay when a rest period was missed,
25 late or interrupted, and that Plaintiffs and the other class members did not receive all rest
26 periods or payment of one additional hour of pay at their regular rate of pay when a rest period
27 was missed.

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1 31. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 knew or should have known that Plaintiffs and the other class members were entitled to receive
3 at least minimum wages for compensation and that Plaintiffs and the other class members were
4 not receiving at least minimum wages for all hours worked.

5 32. Plaintiffs are informed and believe, and based thereon allege, that Defendants
6 knew or should have known that Plaintiffs and the other class members were entitled to receive
7 the wages owed to them upon discharge or resignation, including overtime and minimum
8 wages and meal and rest period premiums, and that Plaintiffs and the other class members did
9 not, in fact, receive such wages owed to them at the time of their discharge or resignation.

10 33. Plaintiffs are informed and believe, and based thereon allege, that Defendants
11 knew or should have known that Plaintiff and the other class members were entitled to receive
12 complete and accurate wage statements in accordance with California law, but, in fact,
13 Plaintiff and the other class members did not receive complete and accurate wage statements
14 from Defendants. The deficiencies included, inter alia, the failure to include the total number
15 of hours worked by Plaintiffs and the other class members.

16 34. Plaintiffs are informed and believe, and based thereon allege, that Defendants
17 knew or should have known that Plaintiffs and the other class members were entitled to
18 reimbursement for necessary business-related expenses.

19 35. Plaintiffs are informed and believe, and based thereon allege, that Defendants
20 knew or should have known that Defendants had to keep complete and accurate payroll records
21 for Plaintiffs and the other class members in accordance with California law, but, in fact, did
22 not keep complete and accurate payroll records for Plaintiffs and the other class members.

23 36. Plaintiffs are informed and believe, and based thereon allege, that Defendants
24 knew or should have known that they had a duty to compensate Plaintiffs and the other class
25 members pursuant to California law, and that Defendants had the financial ability to pay such
26 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
27 represented to Plaintiffs and the other class members that they were properly denied wages,
28 all in order to increase Defendants' profits.

1 37. During the relevant time period set forth herein, Defendants failed to pay
2 overtime wages to Plaintiffs and the other class members for all hours worked. Plaintiffs and
3 other class members were required to work more than eight (8) hours per day and/or forty (40)
4 hours per week without overtime compensation.

5 38. During the relevant time period set forth herein, Defendants failed to provide the
6 requisite uninterrupted and timely meal and rest periods to Plaintiffs and the other class
7 members.

8 39. During the relevant time period set forth herein, Defendants failed to pay
9 Plaintiffs and the other class members at least minimum wages for all hours worked.

10 40. During the relevant time period set forth herein, Defendants failed to pay
11 Plaintiffs and the other class members the wages owed to them upon discharge or resignation.

12 41. During the relevant time period set forth herein, Defendants failed to provide
13 complete or accurate wage statements to Plaintiffs and the other class members.

14 42. During the relevant time period set forth herein, Defendants failed to keep
15 complete or accurate payroll records for Plaintiffs and the other class members.

16 43. During the relevant time period set forth herein, Defendants failed to properly
17 compensate Plaintiffs and the other class members pursuant to California law in order to
18 increase Defendants' profits.

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

22 **FIRST CAUSE OF ACTION**

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

24 **(Against ORMCO CORPORATION and DOES 1 through 100)**

25 45. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1
26 through 42, and each and every part thereof with the same force and effect as though fully set
27 forth herein.

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

47. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiffs and the other class members employed by Defendants, who work(ed) more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

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

49. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked 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, and overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

50. During the relevant time period set forth herein, Plaintiffs and the other class members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

51. During the relevant time period set forth herein, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiffs and the other class members.

52. Defendants’ failure to pay Plaintiffs and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

53. Pursuant to California Labor Code section 1194, Plaintiffs and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and

attorneys' fees.

SECOND CAUSE OF ACTION

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

(Against ORMCO CORPORATION and DOES 1 through 100)

54. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 53, and each and every part thereof with the same force and effect as though fully set forth herein.

55. During the relevant time period set forth herein, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiffs' and the other class members' employment by Defendants.

56. During the relevant time period set forth herein, 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.

57. During the relevant time period set forth herein, 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.

58. During the relevant time period set forth herein, 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.

59. During the relevant time period set forth herein, Plaintiffs and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and

1 who did not waive their legally-mandated meal periods by mutual consent, were required to
2 work for periods longer than five (5) hours without an uninterrupted meal period of not less
3 than thirty (30) minutes and/or without a rest period.

4 60. During the relevant time period set forth herein, Plaintiffs and the other class
5 members who were scheduled to work for a period of time no longer than twelve (12) hours,
6 and who did not waive their legally-mandated meal periods by mutual consent, were required
7 to work for periods longer than ten (10) hours without an uninterrupted meal period of not less
8 than thirty (30) minutes and/or without a rest period.

9 61. During the relevant time period set forth herein, Plaintiffs and the other class
10 members who were scheduled to work for a period of time in excess of six (6) hours were
11 required to work for periods longer than five (5) hours without an uninterrupted meal period
12 of not less than thirty (30) minutes and/or without a rest period.

13 62. During the relevant time period set forth herein, Plaintiffs and the other class
14 members who were scheduled to work for a period of time in excess of twelve (12) hours were
15 required to work for periods longer than ten (10) hours without an uninterrupted meal period
16 of not less than thirty (30) minutes and/or without a rest period.

17 63. During the relevant time period set forth herein, Defendants intentionally and
18 willfully required Plaintiffs and the other class members to work during meal periods and
19 failed to compensate Plaintiffs and the other class members the full meal period premium for
20 work performed during meal periods.

21 64. During the relevant time period set forth herein, Defendants failed to pay
22 Plaintiffs and the other class members the full meal period premium due pursuant to California
23 Labor Code section 226.7.

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

26 66. Pursuant to the applicable IWC Wage Order and California Labor Code section
27 226.7(b), Plaintiffs and the other class members are entitled to recover from Defendants one
28 additional hour of pay at the employee's regular rate of compensation for each workday that

1 the meal or rest period is not provided.

2 **THIRD CAUSE OF ACTION**

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

4 **(Against ORMCO CORPORATION and DOES 1 through 100)**

5 67. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
6 through 66, and each and every part thereof with the same force and effect as though fully set
7 forth herein.

8 68. During the relevant time period set forth herein, the applicable IWC Wage Order
9 and California Labor Code section 226.7 were applicable to Plaintiffs' and the other class
10 members' employment by Defendants.

11 69. During the relevant time period set forth herein, California Labor Code section
12 226.7 provides that no employer shall require an employee to work during any rest period
13 mandated by an applicable order of the California IWC.

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

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

23 72. During the relevant time period set forth herein, Defendants willfully required
24 Plaintiffs and the other class members to work during rest periods and failed to pay Plaintiffs
25 and the other class members the full rest period premium for work performed during rest
26 periods.

27 73. During the relevant time period set forth herein, Defendants failed to pay
28 Plaintiffs and the other class members the full rest period premium due pursuant to California

1 Labor Code section 226.7.

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

4 75. Pursuant to the applicable IWC Wage Orders and California Labor Code section
5 226.7(b), Plaintiffs and the other class members are entitled to recover from Defendants one
6 additional hour of pay at the employees' regular hourly rate of compensation for each workday
7 that the rest period was not provided.

8 **FOURTH CAUSE OF ACTION**

9 **(Violation of California Labor Code §§ 1194 and 1197)**

10 **(Against ORMCO CORPORATION and DOES 1 through 100)**

11 76. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
12 through 75 and each and every part thereof with the same force and effect as though fully set
13 forth herein.

14 77. During the relevant time period set forth herein, California Labor Code sections
15 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of
16 a lesser wage than the minimum so fixed, is unlawful.

17 78. During the relevant time period set forth herein, Defendants failed to pay
18 minimum wages to Plaintiffs and the other class members as required, pursuant to California
19 Labor Code sections 1194 and 1197.

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

25 80. 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.

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1 **FIFTH CAUSE OF ACTION**

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

3 **(Against ORMCO CORPORATION and DOES 1 through 100)**

4 81. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
5 through 80, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

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

14 83. During the relevant time period set forth herein, Defendants intentionally and
15 willfully failed to pay Plaintiffs and the other class members who are no longer employed by
16 Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving
17 Defendants' employ.

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

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

26 86. Plaintiffs and the other class members are entitled to recover from Defendants
27 the statutory penalty wages for each day they were not paid, up to the thirty (30) day maximum
28 as provided by Labor Code section 203.

1 **SIXTH CAUSE OF ACTION**

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

3 **(Against ORMCO CORPORATION and DOES 1 through 100)**

4 87. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
5 through 86, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 88. During the relevant time period set forth herein, California Labor Code section
8 226(a) provides that every employer shall furnish each of his or her employees an accurate
9 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
10 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
11 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
12 on written orders of the employee may be aggregated and shown as one item, (5) net wages
13 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
14 the employee and his or her social security number, (8) the name and address of the legal
15 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period
16 and the corresponding number of hours worked at each hourly rate by the employee. The
17 deductions made from payments of wages shall be recorded in ink or other indelible form,
18 properly dated, showing the month, day, and year, and a copy of the statement or a record of
19 the deductions shall be kept on file by the employer for at least three years at the place of
20 employment or at a central location within the State of California.

21 89. Defendants have intentionally and willfully failed to provide Plaintiffs and the
22 other class members with complete and accurate wage statements. The deficiencies include
23 but are not limited to: the failure to include the total number of hours worked by Plaintiffs and
24 other class members.

25 90. As a result of Defendants' violation of California Labor Code section 226(a),
26 Plaintiffs and the other class members have suffered injury and damage to their statutorily
27 protected rights.

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1 91. More specifically, Plaintiffs 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 92. Plaintiffs and the other class members are entitled to recover from Defendants
6 the greater of their actual damages caused by Defendants' failure to comply with California
7 Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
8 employee.

9 93. Plaintiffs 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(g).

11 **SEVENTH CAUSE OF ACTION**

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

13 **(Against ORMCO CORPORATION and DOES 1 through 100)**

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

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

21 96. Defendants have intentionally and willfully failed to reimburse Plaintiffs and the
22 other class members for all necessary business-related expenses and costs. Plaintiffs and the
23 other class members are entitled to recover from Defendants their business-related expenses and
24 costs incurred during the course and scope of their employment, plus interest accrued from the
25 date on which the employee incurred the necessary expenditures at the same rate as judgments
26 in civil actions in the State of California.

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1 **EIGHTH CAUSE OF ACTION**

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

3 **(Against ORMCO CORPORATION and DOES 1 through 100)**

4 97. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
5 through 96, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

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

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

14 100. A violation of California Business & Professions Code section 17200, *et seq.*
15 may be predicated on the violation of any state or federal law. In this instant case, Defendants'
16 policy and practice of requiring Plaintiffs and the other class members work overtime hours
17 without paying them proper compensation violate California Labor Code sections 510 and
18 1198. Additionally, Defendants' policy and practice of requiring Plaintiffs and the other class
19 members, to work through their meal and rest periods without paying them proper
20 compensation violate California Labor Code sections 226.7 and 512(a). Moreover,
21 Defendants' policy and practice of failing to timely pay wages to Plaintiffs and the other class
22 members violate California Labor Code sections 201 and 202. Defendants also violated
23 California Labor Code sections 226(a), 1194, 1197, 2800 and 2802.

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

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

103. Pursuant to California Business & Professions Code section 17200, *et seq.*, Plaintiffs and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to 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.

NINTH CAUSE OF ACTION

Violation Of PAGA

(Against ORMCO CORPORATION and DOES 1 through 100)

104. Plaintiffs Erika Morrow, Mayda Aguirre, Daniel Alcocer and Robert Rodriguez re-allege and incorporates by reference paragraphs 45 through 103 as though fully set forth herein.

105. Based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to PAGA and Labor Code §§ 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 246, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802

106. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

107. On November 30, 2021, Plaintiff Aguirre provided written notice to the LWDA and Defendants of the specific provisions of the Labor Code she contends were violated, and the theories supporting her contentions. Attached hereto as **Exhibit 1** and incorporated by reference is a copy of the written notice to the LWDA. Plaintiff Aguirre believes that on or about February 3, 2022, the sixty-five (65) days' notice period expired as to all Defendants, and the LWDA did not take any action to investigate or prosecute this matter. Thus, Plaintiff Aguirre exhausted her administrative remedies.

108. On December 2, 2021, Plaintiff Alcocer provided written notice to the LWDA and Defendants of the specific provisions of the Labor Code he contends were violated, and the

1 theories supporting his contentions. Attached hereto as **Exhibit 2** and incorporated by reference
2 is a copy of the written notice to the LWDA. Plaintiff Alcocer believes that on or about February
3 35, 2022, the sixty-five (65) days' notice period expired as to all Defendants, and the LWDA
4 did not take any action to investigate or prosecute this matter. Thus, Plaintiff Alcocer exhausted
5 his administrative remedies.

6 109. On December 8, 2021, Plaintiff Rodriguez provided written notice to the LWDA
7 and Defendants of the specific provisions of the Labor Code he contends were violated, and the
8 theories supporting his contentions. Attached hereto as **Exhibit 3** and incorporated by reference
9 is a copy of the written notice to the LWDA. Plaintiff Rodriguez believes that on or about
10 February 11, 2022, the sixty-five (65) days' notice period expired as to all Defendants, and the
11 LWDA did not take any action to investigate or prosecute this matter. Thus, Plaintiff Rodriguez
12 exhausted his administrative remedies.

13 110. PAGA Plaintiffs and the other hourly-paid or non-exempt employees are
14 "aggrieved employees" as defined by California Labor Code § 2699(c) in that they are all
15 individuals whom Defendant Ormco employed in California between September 30, 2017 and
16 November 21, 2022 who have not entered into an arbitration agreement or release agreement
17 with Ormco.

18 **Failure to Pay Minimum and Overtime Wages**

19 111. At all times relevant herein, Defendants were required to compensate their non-
20 exempt employees minimum wages for all hours worked and overtime wages for all hours
21 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the
22 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

23 112. As a policy and practice, Defendants failed to compensate Plaintiffs and other
24 aggrieved current and former employees for all hours worked, resulting in a failure to pay all
25 minimum wages and overtime wages, where applicable.

26 **Failure to Provide Paid Sick Leave**

27 113. At all times relevant herein, Defendants were required to provide employees with
28 paid sick leave of not less than one (1) hour per every thirty (30) hours worked, pursuant to

1 California Labor Code § 246.

2 114. At all times relevant herein, Defendants were required to pay paid sick leave at a
3 non-exempt employee's regular rate of pay for the workweek in which the employee uses paid
4 sick time or at a rate calculated by dividing the employee's total wages, not including overtime
5 premium pay, by the employee's total hours worked in the full pay periods of the prior ninety
6 (90) days of employment, pursuant to California Labor Code § 246(1).

7 115. As a policy and practice, Defendants failed to provide Plaintiffs and other
8 aggrieved current and former employees with compliant paid sick leave of one (1) hour worked
9 per every thirty (30) hours worked, by, for example, failing to pay paid sick leave at the proper
10 rate of pay.

11 **Failure to Provide Meal Periods and Rest Breaks**

12 116. In accordance with the mandates of Labor Code §§ 226.7 and 512, Defendants
13 were required to authorize and permit their non-exempt employees to take a 10-minute rest break
14 for every four (4) hours worked or major fraction thereof, and were further required to provide
15 their non-exempt employees with a 30-minute meal period for every five (5) hours worked.

16 117. As a policy and practice, Defendants failed to provide Plaintiffs and other
17 aggrieved current and former employees with legally-mandated meal periods and rest breaks
18 and failed to pay proper compensation for this failure.

19 **Failure to Timely Pay Wages During Employment**

20 118. At all times relevant herein, Defendants were required to pay their employees
21 within a specified time period pursuant to the mandate of Labor Code § 204.

22 119. As a policy and practice, Defendants failed to pay Plaintiffs and other aggrieved
23 current and former employees all wages due and owing them within the required time period.

24 **Failure to Timely Pay Wages Upon Termination**

25 120. At all times relevant herein, Defendants were required to pay their employees all
26 wages owed in a timely fashion at the end of employment pursuant to California Labor Code §§
27 201 to 204.

28 121. As a result of Defendants' Labor Code violations alleged above, Defendants failed

1 to pay Plaintiffs and the other aggrieved former employees their final wages pursuant to Labor
2 Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to Labor Code § 203.

3 **Failure to Provide Complete and Accurate Wage Statements**

4 122. At all times relevant herein, Defendants were required to keep *accurate* records
5 regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174.

6 123. As a result of Defendants' various Labor Code violations, Defendants failed to
7 keep accurate records regarding Plaintiffs and other aggrieved current and former employees.
8 For example, Defendants failed in their affirmative obligation to keep accurate records regarding
9 Plaintiffs and other aggrieved current and former employees' gross wages earned, total hours
10 worked, all deductions, net wages earned, and all applicable hourly rates and the number of
11 hours worked at each hourly rate.

12 **Failure to Keep Complete and Accurate Payroll Records**

13 124. At all times relevant herein, Defendants were required to keep, at a central location
14 in the state or at the plants or establishments at which employees are employed, payroll records
15 showing the hours worked daily by and the wages paid to, and the number of piece-rate unit
16 earned by and any applicable piece rate paid to, employees employed at the respective plants or
17 establishments, pursuant to California Labor Code § 1174(d).

18 125. As a policy and practice, Defendants failed to keep accurate and complete payroll
19 records showing the hours worked daily and the wages paid to Plaintiffs and current and former
20 aggrieved employees.

21 **Failure to Reimburse Business Expenses**

22 126. At all times relevant herein, Defendants were required to reimburse its employees
23 for any and all necessary expenditures or losses incurred by the employees in direct
24 consequences of the discharge or his or her duties pursuant to the mandate of Labor Code §§
25 2800 and 2802.

26 127. As a policy and practice, Defendants failed to pay Plaintiffs and other aggrieved
27 current and former employees all business expenses incurred and owing them within the
28 required time period.

Penalties

128. Pursuant to California Labor Code § 2699, Plaintiffs, individually, and on behalf of other current and former aggrieved employees, request and are entitled to recover from Defendants, and each of them, civil penalties, interest, attorneys' fees and costs pursuant, including but not limited to:

129. Penalties under California Labor Code § 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;

130. Penalties under California Code of Regulations Title 8 § 11040 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;

131. Penalties under California Labor Code § 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;

132. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

133. Any and all additional penalties as provided by the Labor Code and/or other statutes; and

134. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute.

TENTH CAUSE OF ACTION

(Fair Labor Standards Act, 29 U.S.C. § 207)

(Against ORMCO CORPORATION and DOES 1 through 100)

135. Plaintiffs incorporate by reference the allegations contained in paragraphs 1

1 through 133, and each and every part thereof with the same force and effect as though fully set
2 forth herein.

3 136. From the time period beginning on September 30, 2018 through November 21,
4 2022 (the FLSA claims period), Plaintiffs and similarly situated individuals have been entitled
5 to the rights, protections, and benefits provided under the FLSA, 29 U.S.C. § 201 *et seq.*

6 137. During the FLSA claims period, where Plaintiffs and similarly situated individuals
7 have worked hours in excess of forty in a workweek, they have been entitled to overtime
8 compensation at a rate of one and one-half times their regular rate of pay for each additional
9 hour or fraction thereof worked, pursuant to 29 U.S.C. § 207.

10 138. Throughout the FLSA claims period, Defendants have failed and refused to
11 provide Plaintiffs and similarly situated individuals with all the overtime compensation they
12 earned, wrongly depriving them of the FLSA overtime compensation that is due to them.

13 139. As a result of the aforementioned willful violations of the FLSA, overtime
14 compensation has been unlawfully withheld by Defendants from Plaintiffs and similarly situated
15 individuals for which Defendants are liable pursuant to 29 U.S.C. sections 216(b) and 255,
16 together with an additional equal amount as liquidated damages, interest, reasonable attorneys'
17 fees, and the costs of this action.

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1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs, individually, and on behalf of other members of the general public similarly
3 situated, request a trial by jury.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs, individually and on behalf of all other members of the
6 general public similarly situated, pray 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;
10 2. That Plaintiffs be appointed as representatives of the Class;
11 3. That counsel for Plaintiffs be appointed as Class Counsel; and
12 4. That Defendants provide to Class Counsel immediately the names and most
13 current contact information (address, e-mail and telephone numbers) of all class members.

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

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

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

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

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

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

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

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

members;

11. That the Court make an award to Plaintiffs 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(b);

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 Plaintiffs and the other class members;

18. That the Court make an award to Plaintiffs 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(b);

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 and 1197 by willfully failing to pay minimum wages to Plaintiffs and the other class members;

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

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

5 26. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
6 California Labor Code section 1194(a);

7 27. For liquidated damages pursuant to California Labor Code section 1194.2; and

8 28. For such other and further relief as the court may deem just and proper.

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

10 29. That the Court declare, adjudge and decree that Defendants violated California
11 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at
12 the time of termination of the employment of Plaintiffs and the other class members no longer
13 employed by Defendants;

14 30. For all actual, consequential, and incidental losses and damages, according to
15 proof;

16 31. For statutory wage penalties pursuant to California Labor Code section 203 for
17 the other class members who have left Defendants' employ;

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

20 33. For such other and further relief as the court may deem just and proper.

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

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

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

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

28 37. For injunctive relief to ensure compliance with this section, pursuant to

1 California Labor Code section 226(g); and

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

3 **As to the Seventh Cause of Action**

4 39. That the Court declare, adjudge and decree that Defendants violated California
5 Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiffs and the other
6 class members for all necessary business-related expenses as required by California Labor
7 Code sections 2800 and 2802;

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

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

10 42. For punitive damages and/or exemplary damages according to proof at trial;

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

12 44. For such other and further relief as the court may deem just and proper.

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

14 45. That the Court declare, adjudge and decree that Defendants violated California
15 Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiffs and the
16 other class members all overtime compensation due to them, failing to provide all meal and
17 rest periods to Plaintiffs and the other class members, failing to pay at least minimum wages
18 to Plaintiffs and the other class members, failing to pay Plaintiffs and the other class members'
19 wages timely as required by California Labor Code section 201, 202.

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

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

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

28 49. For injunctive relief to ensure compliance with this section, pursuant to

1 California Business and Professions Code sections 17200, *et seq.*; and

2 50. For such other and further relief as the court may deem just and proper.

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

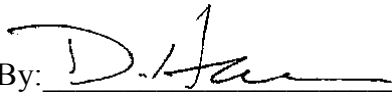
4 51. An order for a complete and accurate accounting of all the compensation to
5 which Plaintiffs and similarly situated individuals are entitled;

6 52. Judgment against Defendants awarding Plaintiffs and similarly situated
7 individuals monetary damages in the form of three (3) years' back pay compensation,
8 liquidated damages equal to his/her unpaid compensation, plus pre-judgment and post-
9 judgment interest;

10 53. For such other and further relief as the court may deem just and proper.

11
12 Dated: August 14, 2023

JUSTICE LAW CORPORATION

13
14 By: 

15 Douglas Han
16 Shunt Tatavos-Gharajeh
17 Lizette Rodriguez
18 *Attorneys for Plaintiff*
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EXHIBIT 1

November 30, 2021

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: ORMCO CORPORATION

Dear Representative:

We have been retained to represent Mayda Aguirre against Ormco Corporation (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "ORMCO").

Ms. Aguirre is pursuing her California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Ms. Aguirre may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Ormco Corporation is a California corporation located at 200 S. Kraemer Blvd., Bldg. E, Brea, California 92821.

ORMCO employed Ms. Aguirre as an hourly-paid non-exempt employee in Manufacturing and Data Entry within one year of the date of this letter (until in or around March of 2021²) in the State of California. ORMCO directly controlled the wages, hours and/or working conditions of Ms. Aguirre and other aggrieved employees' employment, including direction, retention, scheduling, supervision, and termination.

¹ Ms. Aguirre does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Ms. Aguirre will amend this notice when the true names and capacities are known. Ms. Aguirre is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Ms. Aguirre and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

² Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Therefore, the one (1) year statute of limitations for Ms. Aguirre's PAGA cause of action is tolled.

The “aggrieved employees” that Ms. Aguirre may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through a staffing agency) of ORMCO within the State of California.

ORMCO failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Ms. Aguirre has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at ORMCO, regardless of their classification, job title, location, or whether they were hired directly or through a staffing agency.

ORMCO 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, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, 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 without paying the premium overtime rates. During the relevant time period, Ms. Aguirre and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. ORMCO failed to compensate Ms. Aguirre and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, donning and doffing uniforms, undergoing COVID-19 checks, waiting in line to clock-in, and during meal breaks. ORMCO also failed to include non-discretionary bonuses and incentives in aggrieved employees’ regular rate of pay for purposes of overtime compensation. Therefore, Ms. Aguirre and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code section 246 requires that employers provide employees with paid sick leave of not less than one hour per every 30 hours worked. California Labor Code section 246(l) also requires that paid sick leave be paid at a non-exempt employee's regular rate of pay for the workweek in which the employee uses paid sick time or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. During the relevant time period, ORMCO failed to pay Ms. Aguirre and other aggrieved employees with paid sick leave that complied with California Labor Code section 246, by, for example, failing to pay paid sick leave at non-exempt employee's regular rate of pay or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

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 workday that a meal or rest break is not provided. During the relevant time period, ORMCO routinely required Ms. Aguirre and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with ORMCO's policies and expectations, and meet production quotas. ORMCO also failed to provide adequate coverage to Ms. Aguirre and other aggrieved employees so they may be relieved of all work duties and take legally mandated meal and rest breaks. Moreover, ORMCO also failed to authorize and permit Ms. Aguirre and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, ORMCO failed to compensate Ms. Aguirre and other aggrieved employees all the premium wages they were owed, including failing to pay premium wages at Ms. Aguirre and other aggrieved employees' regular rate of pay.

California Labor Code section 551 states "[e]very person employed in any occupation of labor is entitled to one day's rest therefrom in seven." Section 552 further states "[n]o employer of labor shall cause his employees to work more than six days in seven." ORMCO required aggrieved employees to work seven days in a row or more without one day's rest.

California Labor Code section 432.5 states "[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law." ORMCO required aggrieved employees to execute arbitration agreements as a condition of employment despite knowing that such agreements are prohibited under Labor Code section 432.6.

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California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous 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. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, 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 therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, ORMCO failed to pay Ms. Aguirre and other aggrieved employees all wages, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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, ORMCO failed to pay Ms. Aguirre and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks within any time period specified by California Labor Code section 204.

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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, ORMCO did not provide Ms. Aguirre and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from ORMCO were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Ms. Aguirre and other aggrieved employees, (2) total hours worked by Ms. Aguirre and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Ms. Aguirre and other aggrieved employees (4) all deductions for Ms. Aguirre and other aggrieved employees, (5) net wages earned by Ms. Aguirre and other aggrieved employees, (6) the inclusive dates of the period for which Ms. Aguirre and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a 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 Ms. Aguirre and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Ms. Aguirre and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 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, ORMCO failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Ms. Aguirre and other aggrieved employees.

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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, ORMCO did not provide Ms. Aguirre and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift, donning and doffing uniforms, undergoing COVID-19 checks, waiting in line to clock-in, and during meal breaks.

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 their employment, Ms. Aguirre and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by ORMCO, including for purchasing equipment they were required to wear while working and using their personal cellular phones to communicate with supervisors for scheduling and work status updates.

We believe that Ms. Aguirre and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Ms. Aguirre will seek these penalties on her own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of ORMCO within one year of the date of this letter, as allowed by law.

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LWDA

November 30, 2021

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If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a long horizontal flourish extending to the right.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

C T Corporation System
c/o Ormco Corporation
330 N. Brand Blvd. Ste. 700
Glendale, California 91203
Agent for Service of Process for Ormco Corporation

EXHIBIT 2

December 2, 2021

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: ORMCO CORPORATION

Dear Representative:

We have been retained to represent Daniel Alcocer against Ormco Corporation (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "ORMCO").

Mr. Alcocer is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Alcocer may seek penalties for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Ormco Corporation is a California corporation located at 200 S. Kraemer Blvd., Bldg. E, Brea, California 92821.

ORMCO employed Mr. Alcocer as an hourly-paid non-exempt employee in Structo and Polishing within one year of the date of this letter (until in or around January of 2021²) in the State of California. Kelly Services placed Mr. Alcocer at Ormco Corporation. ORMCO directly controlled the wages, hours and/or working conditions of Mr. Alcocer and other aggrieved employees' employment, including direction, retention, scheduling, supervision, and termination.

¹ Mr. Alcocer does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. Alcocer will amend this notice when the true names and capacities are known. Mr. Alcocer is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. Alcocer and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

² Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Therefore, the one (1) year statute of limitations for Mr. Alcocer's PAGA cause of action is tolled.

The “aggrieved employees” that Mr. Alcocer may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through a staffing agency) of ORMCO within the State of California.

ORMCO failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Alcocer has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at ORMCO, regardless of their classification, job title, location, or whether they were hired directly or through a staffing agency.

ORMCO 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, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, 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 without paying the premium overtime rates. During the relevant time period, Mr. Alcocer and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. ORMCO failed to compensate Mr. Alcocer and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, donning and doffing uniforms, undergoing COVID-19 checks, waiting in line to clock-in, and during meal breaks. ORMCO also failed to include non-discretionary bonuses and incentives in aggrieved employees’ regular rate of pay for purposes of overtime compensation. Therefore, Mr. Alcocer and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code section 246 requires that employers provide employees with paid sick leave of not less than one hour per every 30 hours worked. California Labor Code section 246(l) also requires that paid sick leave be paid at a non-exempt employee's regular rate of pay for the workweek in which the employee uses paid sick time or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. During the relevant time period, ORMCO failed to pay aggrieved employees with paid sick leave that complied with California Labor Code section 246, by, for example, failing to pay paid sick leave at non-exempt employee's regular rate of pay or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

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 workday that a meal or rest break is not provided. During the relevant time period, ORMCO routinely required Mr. Alcocer and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with ORMCO's policies and expectations, and meet production quotas. ORMCO also failed to provide adequate coverage to Mr. Alcocer and other aggrieved employees so they may be relieved of all work duties and take legally mandated meal and rest breaks. Moreover, ORMCO also failed to authorize and permit Mr. Alcocer and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, ORMCO failed to compensate Mr. Alcocer and other aggrieved employees all the premium wages they were owed, including failing to pay premium wages at Mr. Alcocer and other aggrieved employees' regular rate of pay.

California Labor Code section 551 states "[e]very person employed in any occupation of labor is entitled to one day's rest therefrom in seven." Section 552 further states "[n]o employer of labor shall cause his employees to work more than six days in seven." ORMCO required aggrieved employees to work seven days in a row or more without one day's rest.

California Labor Code section 432.5 states "[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law." ORMCO required aggrieved employees to execute arbitration agreements as a condition of employment despite knowing that such agreements are prohibited under Labor Code section 432.6.

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California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous 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. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, 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 therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, ORMCO failed to pay Mr. Alcocer and other aggrieved employees all wages, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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, ORMCO failed to pay Mr. Alcocer and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks within any time period specified by California Labor Code section 204.

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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, ORMCO did not provide Mr. Alcocer and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from ORMCO were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Alcocer and other aggrieved employees, (2) total hours worked by Mr. Alcocer and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Alcocer and other aggrieved employees (4) all deductions for Mr. Alcocer and other aggrieved employees, (5) net wages earned by Mr. Alcocer and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Alcocer and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a 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 Mr. Alcocer and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Alcocer and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 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, ORMCO failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Mr. Alcocer and other aggrieved employees.

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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, ORMCO did not provide Mr. Alcocer and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift, donning and doffing uniforms, undergoing COVID-19 checks, waiting in line to clock-in, and during meal breaks.

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 their employment, Mr. Alcocer and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by ORMCO, including for purchasing equipment they were required to wear while working and using their personal cellular phones to communicate with supervisors for scheduling and work status updates.

We believe that Mr. Alcocer and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Mr. Alcocer will seek these penalties on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of ORMCO within one year of the date of this letter, as allowed by law.

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LWDA
December 2, 2021
Page 7 of 7

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read "D. Han", with a long horizontal flourish extending to the right.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

C T Corporation System
c/o Ormco Corporation
330 N. Brand Blvd. Ste. 700
Glendale, California 91203
Agent for Service of Process for Ormco Corporation

EXHIBIT 3

December 8, 2021

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: ORMCO CORPORATION

Dear Representative:

We have been retained to represent Robert Rodriguez against Ormco Corporation (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "ORMCO").

Mr. Rodriguez is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Rodriguez may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Ormco Corporation is a California corporation located at 200 S. Kraemer Blvd., Bldg. E, Brea, California 92821.

ORMCO employed Mr. Rodriguez as an hourly-paid non-exempt Aligner Technician within one year of the data of this letter (until in or around January of 2021²) in the State of California. ORMCO directly controlled the wages, hours and/or working conditions of Mr. Rodriguez and other aggrieved employees' employment, including direction, retention, scheduling, supervision, and termination.

¹ Mr. Rodriguez does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. Rodriguez will amend this notice when the true names and capacities are known. Mr. Rodriguez is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. Rodriguez and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

² Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Therefore, the one (1) year statute of limitations for Mr. Rodriguez's PAGA cause of action is tolled.

The “aggrieved employees” that Mr. Rodriguez may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through a staffing agency) of ORMCO within the State of California.

ORMCO failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Rodriguez has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at ORMCO, regardless of their classification, job title, location, or whether they were hired directly or through a staffing agency.

ORMCO 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, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, 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 without paying the premium overtime rates. During the relevant time period, Mr. Rodriguez and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. ORMCO failed to compensate Mr. Rodriguez and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, donning and doffing uniforms, undergoing COVID-19 checks, waiting in line to clock-in, and during meal breaks. ORMCO also failed to include non-discretionary bonuses and incentives in aggrieved employees’ regular rate of pay for purposes of overtime compensation. Therefore, Mr. Rodriguez and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code section 246 requires that employers provide employees with paid sick leave of not less than one hour per every 30 hours worked. California Labor Code section 246(l) also requires that paid sick leave be paid at a non-exempt employee's regular rate of pay for the workweek in which the employee uses paid sick time or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. During the relevant time period, ORMCO failed to pay Mr. Rodriguez and other aggrieved employees with paid sick leave that complied with California Labor Code section 246, by, for example, failing to pay paid sick leave at non-exempt employee's regular rate of pay or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

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 workday that a meal or rest break is not provided. During the relevant time period, ORMCO routinely required Mr. Rodriguez and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with ORMCO's policies and expectations, and meet production quotas. ORMCO also failed to provide adequate coverage to Mr. Rodriguez and other aggrieved employees so they may be relieved of all work duties and take legally mandated meal and rest breaks. Moreover, ORMCO also failed to authorize and permit Mr. Rodriguez and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, ORMCO failed to compensate Mr. Rodriguez and other aggrieved employees all the premium wages they were owed, including failing to pay premium wages at Mr. Rodriguez and other aggrieved employees' regular rate of pay.

California Labor Code section 551 states "[e]very person employed in any occupation of labor is entitled to one day's rest therefrom in seven." Section 552 further states "[n]o employer of labor shall cause his employees to work more than six days in seven." ORMCO required aggrieved employees to work seven days in a row or more without one day's rest.

California Labor Code section 432.5 states "[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law." ORMCO required aggrieved employees to execute arbitration agreements as a condition of employment despite knowing that such agreements are prohibited under Labor Code section 432.6.

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California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous 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. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, 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 therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, ORMCO failed to pay Mr. Rodriguez and other aggrieved employees all wages, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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, ORMCO failed to pay Mr. Rodriguez and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks within any time period specified by California Labor Code section 204.

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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, ORMCO did not provide Mr. Rodriguez and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from ORMCO were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Rodriguez and other aggrieved employees, (2) total hours worked by Mr. Rodriguez and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Rodriguez and other aggrieved employees (4) all deductions for Mr. Rodriguez and other aggrieved employees, (5) net wages earned by Mr. Rodriguez and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Rodriguez and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a 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 Mr. Rodriguez and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Rodriguez and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 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, ORMCO failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Mr. Rodriguez and other aggrieved employees.

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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, ORMCO did not provide Mr. Rodriguez and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift, donning and doffing uniforms, undergoing COVID-19 checks, waiting in line to clock-in, and during meal breaks.

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 their employment, Mr. Rodriguez and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by ORMCO, including for purchasing equipment they were required to wear while working and using their personal cellular phones to communicate with supervisors for scheduling and work status updates.

We believe that Mr. Rodriguez and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Mr. Rodriguez will seek these penalties on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of ORMCO within one year of the date of this letter, as allowed by law.

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December 8, 2021
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If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read "D. Han", with a long horizontal flourish extending to the right.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

C T Corporation System
c/o Ormco Corporation
330 N. Brand Blvd. Ste. 700
Glendale, California 91203
Agent for Service of Process for Ormco Corporation

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