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19 *Attorneys for Plaintiffs Dan Cameron,*
20 *Frank Gonzalez, Nicole Hackman and Steven French*
21 *on behalf of themselves and all others similarly situated*

22 SUPERIOR COURT OF CALIFORNIA

23 COUNTY OF ORANGE

24 CIVIL COMPLEX CENTER

25 DAN CAMERON, FRANK GONZALEZ,
26 NICOLE HACKMAN and STEVEN FRENCH,
27 individually and on behalf of all others similarly
28 situated,

Plaintiff,

vs.

PC FLAGSHIP, LLC d/b/a Bluegold/LSXO, a
California limited liability company, and TIN
VUONG, and JORGE VALINES, individually, and
DOES 1 through 100, inclusive,

Defendants.

No. 30-2022-01246262-CU-OE-CXC

**AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Failure to Pay Overtime Wages
- (2) Failure to Pay for All Hours Worked
- (3) Failure to Provide Lawful Meal Periods
- (4) Failure to Authorize and Permit Lawful Rest Periods
- (5) Violation of Split Shift Premium Pay
- (6) Statutory Penalties for Violation of Record-Keeping Requirements
- (7) Waiting Time Pay
- (8) Unjust Enrichment/Constructive Trust
- (9) Violations of Unfair Competition Law
- (10) Violations of the Private Attorneys General Act of 2004

[DEMAND FOR JURY TRIAL]

The Amount Demanded Exceeds \$25,000

1 Plaintiffs Dan Cameron (“Cameron”), Frank Gonzalez (“Gonzalez”), Nicole Hackman
2 (“Hackman”) and Steven French (“French”), *et al.* (collectively, "Plaintiffs"), individually and on
3 behalf of all others similarly situated and all other current and former aggrieved employees of
4 Defendants, allege as follows:

5 **INTRODUCTION**

6 1. This is a class action brought by four individuals who were employed by Defendants
7 PC FLAGSHIP, LLC d/b/a Bluegold/LSXO (“Bluegold”), and Tin Vuong, and Jorge Valines,
8 individually, and DOES 1-100 inclusive, (collectively "Defendants") to work in one or more of their
9 California restaurants. Plaintiffs bring this action on behalf of themselves and other similarly
10 situated hourly, non-exempt employees who are employed by, or were formerly employed by
11 Defendants, in Defendants’ restaurants within the State of California at any time during the four
12 years prior to the filing of this complaint to the date of judgment. Plaintiffs seek to recover the wages
13 owed by Defendants, for which Defendants did not pay in violation of California law. Plaintiffs
14 also seek redress for Defendants’ actions in improperly altering records of hours worked and
15 compensation owed, and denying and/or misrepresenting to the workers the amount of their
16 earnings; and denying workers the opportunity to take legally mandated meal periods and rest breaks
17 while also refusing to pay workers statutorily-required pay for all missed, late, and shortened meal
18 periods and rest breaks.

19 2. During the liability period, as defined as the applicable statute of limitations for each
20 and every cause of action contained herein, Defendants consistently maintained and enforced against
21 non-exempt employees unlawful practices and policies in violation of California state wage and
22 hour laws as detailed more extensively herein.

23 3. From at least four (4) years prior to the filing of this complaint and continuing to the
24 present, Defendants maintained the following unlawful policies of: (a) failing to provide lawful meal
25 and rest breaks, and failing to pay employees one (1) hour of pay at the employee’s regular rate of
26 compensation for each workday that a legally compliant meal or rest period is or was not lawfully
27 provided; (b) failing to pay for all hours worked; (c) failing to pay overtime wages; (d) failing to
28 provide accurate itemized wage statements; (e) and failing to keep accurate time keeping records.

1 Plaintiff further alleges that Defendants Tin Vuong, and Jorge Valines created, implemented,
2 administered and/or authorized the practices alleged to have occurred herein, and caused to be
3 violated the listed sections of the California Labor Code, such that Plaintiffs, class members, and
4 aggrieved employees failed to receive meal and rest periods, failed to receive compensation for work
5 without meal and rest periods, and failed to receive all overtime wages earned in violation of Labor
6 Code sections 510, 512, and 558, and provisions regulating the hours and days of work in the
7 applicable Industrial Welfare Commission Wage Orders.

8 4. Plaintiffs, on behalf of themselves, and all putative Class Members, bring this action
9 pursuant to Labor Code sections 201, 202, 203, 204, 206, 218.5, 218.6, 221-224, 226, 226.3, 226.7,
10 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1195, 1197, 1198, and 2802, the applicable IWC
11 California Wage Orders, and California Code of Regulations, Title 8, section 11000 *et. seq.*, seeking
12 unpaid wages, unpaid meal and rest period compensation, penalties, and reasonable attorney's fees
13 and costs. These failures further constitute violations of California Labor Code section 2698, *et. seq.*,
14 the Private Attorneys General Act of 2004 ("the PAGA"), through which Plaintiffs, and all putative
15 Class Members, seek civil penalties. Plaintiffs are informed and believes that the damages, back
16 wages, expense reimbursements, restitution, penalties, interest and attorneys' fees do not exceed an
17 aggregate of \$4,999,999.99 and that the pro-rata value of Plaintiff's individual claims, including
18 damages, back wages, expense reimbursements, restitution, interest, attorneys' fees, and penalties,
19 does not exceed \$74,999.99.

20 5. Plaintiffs, on behalf of themselves, and all putative Class Members, pursuant to
21 Business and Professions Code sections 17200-17208, also seeks restitution from Defendants for
22 their unlawful conduct specified herein.

23 **PARTIES**

24 **A. Plaintiffs and the Class**

25 6. Plaintiff Nicole Hackman is and was at all relevant times a resident of Orange
26 County, California. During the relevant times addressed herein, Plaintiff was employed by
27 Defendant as an hourly, non-exempt restaurant employee in the City of Huntington Beach,
28 California. Plaintiff began her employment with Defendants on or about February 2017. At all

1 relevant times, Plaintiff was employed by Defendants in various hourly, non-exempt restaurant
2 positions, including as a server, manager, and as a banquet coordinator. Before her employment
3 ended, her wage rate was \$13.00 per hour, plus tips.

4 7. Plaintiff Steven French is and was at all relevant times a resident of Orange County,
5 California. During the relevant times addressed herein, Plaintiff was employed by Defendant as an
6 hourly, non-exempt restaurant employee in the City of Huntington Beach, California. Plaintiff began
7 his employment with Defendants on or about September 2016. At all relevant times, Plaintiff was
8 employed by Defendants in various hourly, non-exempt restaurant positions, including as a server
9 and as a manager. Before his employment ended, his wage rate was \$13.00 per hour or \$17.00 per
10 hour (depending on which job he was working), plus tips.

11 8. Plaintiff Dan Cameron is and was at all relevant times a resident of Orange County,
12 California. During the relevant times addressed herein, Plaintiff was employed by Defendant as an
13 hourly, non-exempt restaurant employee in the City of Huntington Beach, California. At all relevant
14 times, Plaintiff was employed by Defendants in various hourly, non-exempt restaurant positions,
15 including as a server. Plaintiff's employment with Defendants ended on or about December 2021.
16 Before his employment ended, his wage rate was \$13.00 per hour, plus tips.

17 9. Plaintiff Frank Gonzalez is and was at all relevant times a resident of Orange County,
18 California. During the relevant times addressed herein, Plaintiff was employed by Defendant as an
19 hourly, non-exempt restaurant employee in the City of Huntington Beach, California. At all relevant
20 times, Plaintiff was employed by Defendants in various hourly, non-exempt restaurant positions,
21 including as a server. Plaintiff's employment with Defendants ended on or about December 2021.
22 Before his employment ended, his wage rate was \$13.00 per hour, plus tips.

23 10. As Bluegold employees, Plaintiffs and the Class they seek to represent were regularly
24 required to:

- 25 (a) work without compensation for all hours worked;
- 26 (b) work without being permitted or authorized the required, lawful, timely, paid
- 27 rest periods;
- 28

- 1 (c) work without being compensated one (1) hour of pay at the regular rate of
2 compensation for each workday that a lawful rest period was not provided;
3 (d) work in excess of five (5) hours per day without being provided a lawful,
4 timely meal period;
5 (e) work without being compensated one (1) hour of pay at the regular rate of
6 compensation for each workday that a meal period was late, interrupted
7 and/or not provided.

8 11. Defendants also failed to provide accurate itemized wage statements to Plaintiffs
9 and members of the Class.

10 **B. Defendants**

11 12. Defendant PC FLAGSHIP, LLC d/b/a Bluegold/LSXO is a California Limited
12 Liability Corporation, which maintains a group of restaurants in California. It is headquartered in
13 Huntington Beach, California. As relevant to this Complaint, Bluegold owns and operates numerous
14 restaurants located in California including in Orange County. Defendants Vuong and Valines are
15 both owner/operators responsible for all policy decisions and the day-to-day management of
16 Bluegold's employees.

17 13. As pertinent hereto, Defendants employ and has employed numerous non-exempt
18 restaurant employees, however titled, in its locations in California, including without limitation at
19 the restaurant "Bluegold" and "LSXO" at Pacific City located at 21016 Pacific Coast Highway,
20 Suite D200, Huntington Beach, California 92648. Such non-exempt restaurant employees include,
21 without limitation, servers, hosts, waiters, cooks, kitchen staff, bussers, bartenders, and hourly
22 managers.

23 14. The true names and capacities of Defendants, whether individual, corporate,
24 associate, or otherwise, sued herein as DOES 1 through 100, inclusive, are currently unknown to
25 Plaintiffs, who therefore sues Defendants by such fictitious names. Plaintiffs are informed and
26 believe, and based thereon allege that each of the Defendants designated herein as a DOE is legally
27 responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of
28

1 court to amend this Complaint to reflect the true names and capacities of the Defendants designated
2 hereinafter as DOES when such identities become known.

3 15. Plaintiffs are informed and believe, and based thereon allege, that Defendants acted
4 in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
5 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
6 attributable to the other Defendants.

7 **JURISDICTION AND VENUE**

8 16. The Superior Court of the State of California has jurisdiction in this matter because
9 Defendants PC FLAGSHIP, LLC d/b/a Bluegold/LSXO, is a California Limited Liability
10 Corporation, and Defendants Vuong and Valines and DOES 1-100 inclusive, each regularly conduct
11 business in California. Further, no federal question is at issue because all Plaintiffs' claims are
12 based solely on California law.

13 17. Venue is proper in this judicial district and the County of Orange, California because
14 Plaintiffs and other persons similarly situated performed work for Defendants in the County of
15 Orange, because Defendants maintain offices and facilities and transact business in the County of
16 Orange, and because Defendants' illegal wage and theft policies and practices that are the subject
17 of this action were applied, at least in part, to the Plaintiffs and other persons similarly situated in
18 the County of Orange.

19 **FACTUAL BACKGROUND**

20 18. Defendants operate and, at all times during the liability period, have conducted
21 business in the city of Huntington Beach located in Orange County, and have maintained numerous
22 restaurants within California.

23 19. Defendants employed hourly, non-exempt restaurant employees, however titled, at
24 its locations in Orange County, California ("Class Members"), including without limitation at the
25 restaurant Bluegold/LSXO at Pacific City in Huntington Beach, California.

26 20. Plaintiffs and Class Members are, and all times pertinent hereto, have been non-
27 exempt employees within the meaning of the California Labor Code, and the implementing rules
28

1 and regulations of the IWC California Wage Orders. They are subject to the protections of IWC
2 Wage Order No. 5-2001 and the Labor Code.

3 21. During the liability period, Plaintiffs and the Class Members were employed by
4 Defendants in Orange County, California and were paid hourly wages on a non-exempt basis.

5 22. Plaintiffs and the Class Members worked in various positions at the restaurants,
6 including without limitation, as servers, hosts, waiters, cooks, kitchen staff, bussers, bartenders, and
7 hourly managers.

8 23. Plaintiffs are informed and believe, and based thereon allege, that Defendants are
9 and were advised by skilled lawyers and other professionals, employees, and advisors with
10 knowledge of the requirements of California's wage and employment laws.

11 24. Plaintiffs and the Class Members were regularly required to work hours off-the-
12 clock, before and after their shifts, for which they were not paid.

13 25. Defendants knew or should have known that Plaintiffs and the Class Members were
14 working off the clock without being compensated for such time.

15 26. Defendants regularly edited or deleted Plaintiffs' and the Class Members daily and
16 weekly time cards in order to avoid paying both daily and weekly overtime wages, as well as to
17 inaccurately reflect meal and rest periods were taken.

18 27. Plaintiffs and the Class Members were regularly required to work shifts in excess of
19 five (5) hours without being provided a lawful meal period, and over ten (10) hours in a day without
20 being provided a second lawful meal period as required by law.

21 28. As a consequence of Defendants' scheduling practices, work demands, and
22 Defendants' policies and practices, Plaintiffs and the Class Members were frequently not provided
23 with a timely, lawful, uninterrupted thirty (30) minute meal period when the employee's work shift
24 exceeded five (5) hours and were not provided with a second timely, lawful thirty (30) minute meal
25 period when the employee's work shift exceeded ten (10) hours.

26 29. On the occasions that meal periods were provided to Plaintiffs and Class Members,
27 the meal periods were frequently late or short.

1 30. In addition, Plaintiffs and, upon information and belief, Class Members were
2 expected to sign waivers of meal breaks on shifts of up to 7 hours. Supervisors encouraged and
3 expected them to sign such waivers, and pressured them to sign the waivers even when they wanted
4 to take a statutorily required meal period. Thus, such waivers were not consensual.

5 31. Defendants failed to get daily meal break waivers from Plaintiffs and Class Members
6 as required by California law, but rather tried to enforce a one-time signed waiver for the employees.
7 These waivers are unenforceable and invalid under California law.

8 32. Plaintiffs and Class Members were also not compensated an additional hour of pay
9 at the employee's regular rate of pay when such meal periods were not provided in violation of
10 Labor Code §§ 226.7 and 512, and the applicable Industrial Welfare Wage Orders.

11 33. In addition, during the relevant time frame, Plaintiffs and Class Members were
12 systematically not authorized and permitted to take one ten-minute paid, rest period for every four
13 hours worked or major fraction thereof, which is a violation of the Labor Code and IWC wage order
14 5-2001.

15 34. Defendants maintained and enforced scheduling practices, policies, and imposed
16 work demands that frequently required Plaintiffs and the Class Members to forego their lawful, paid
17 rest periods of ten minutes for every four (4) hours worked or major fraction thereof.

18 35. Moreover, upon information and belief, employees were required to remain on
19 premises during rest periods.

20 36. Despite the above-mentioned rest period violations, Defendants did not compensate
21 Plaintiffs, and on information and belief, did not pay Class Members one additional hour of pay at
22 their regular rate Plaintiffs and Class Members as required by California law, including Labor Code
23 section 226.7 and the applicable IWC wage order, for each day on which lawful rest periods were
24 not authorized and permitted.

25 37. Defendants also failed to provide accurate lawful itemized wage statements to
26 Plaintiffs and the Class Members in part because of the above specified violations. Defendants have
27 also made it difficult to determine applicable rates of pay and account for the unlawfully withheld
28 wages and deductions due to be paid to the Class Members, including Plaintiffs, during the liability

1 period because they did not implement and preserve a lawful record-keeping method to record all
2 hours worked, and non-provided rest and meal periods owed to employees as required for non-
3 exempt employees by California Labor Code section 226, and applicable California Wage Orders.
4 Plaintiffs and the Class Members are therefore entitled to penalties not to exceed \$4,000 for each
5 employee pursuant to California Labor Code section 226(e).

6 38. On information and belief, Defendants knew or should have known that it is improper
7 to commit the following unlawful acts:

- 8 (a) requiring Bluegold/LSXO employees to work in excess of five hours and ten
9 hours per day, respectively, without being provided a lawful, timely
10 uninterrupted thirty (30) minute meal period and/or a second lawful, timely
11 uninterrupted thirty (30) minute meal period;
- 12 (b) failing to compensate employees with one (1) hour of pay at the regular rate
13 of compensation for each workday that a lawful, timely first or second meal
14 period was not provided;
- 15 (c) failing to authorize and permit employees to take a paid net ten-minute rest
16 period for every four hours worked or major fraction thereof on shifts
17 exceeding 3.5 hours;
- 18 (d) failing to compensate employees with one (1) hour of pay at the regular rate
19 of compensation for each workday that a lawful, timely rest period was not
20 provided;
- 21 (e) failing to pay employees for all hours worked, including without limitation
22 for time off-the-clock work; and
- 23 (f) failing to provide accurate itemized, legally compliant wage statements to
24 employees.

25 39. Plaintiffs are informed and believe that Defendants' violation of the Labor Code and
26 IWC wage orders as specified herein was willful and deliberate.

27 40. In addition, Defendants willfully failed to pay on time to Plaintiffs and Class
28 Members the legal minimum and regular wages they earned, and failed to pay an additional hour of

1 compensation at the employee's regular rate in lieu of required, but not lawfully provided, meal and
2 rest periods, when each such employee quit or was discharged.

3 **CLASS ACTION ALLEGATIONS**

4 41. Plaintiffs bring their claims for relief to redress and remedy Defendants' violations
5 of the California Labor Code. The potential class is significant, and, on information and belief,
6 includes current and former Bluegold/LSXO employees in California. Joinder of all current and
7 former employees individually would be impractical.

8 42. Plaintiffs seek to represent the following class of Bluegold/LSXO employees:

9 All persons who are employed or have been employed by Defendants as non-exempt, hourly
10 employees, however titled, in Defendants' Orange County restaurants during the period beginning
11 four (4) years prior to the commencement of this action through the date of the judgment of this
12 action (the "Class Period").

13 43. Plaintiffs reserve the right to amend or modify the descriptions of the Class, and/or
14 to add Subclasses, to provide greater specificity as appropriate, or if it should be deemed necessary
15 by the Court or to further divide the Class Members into Subclasses.

16 44. As set forth in further detail below, this action has been brought and may properly
17 be maintained as a class action under C.C.P. § 382 because there is a well-defined community of
18 interest in litigation and the common questions of law and fact predominate over any questions
19 affecting only individual members of the class. For all these and other reasons, a class action is
20 superior to other available methods for the fair and efficient adjudication of the controversy set forth
21 in this Complaint.

22 **A. Numerosity**

23 45. The potential members of the Class as defined are so numerous that joinder of all
24 members of the Class is impracticable. While the precise number of Class Members has not been
25 determined at this time, Plaintiffs are informed and believe that the class consists of more than 50
26 individuals but fewer than 100, geographically dispersed throughout California, the disposition of
27 whose claims in a class action will provide substantial benefits to both the parties and the Court.

1 Plaintiffs allege that Defendants' employment records would provide information as to the number
2 and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

3 46. The proposed class is easily ascertainable. The number and identity of the class
4 members are determinable from Defendants' payroll records and time records for each class
5 member.

6 **B. Commonality**

7 47. There are questions of law and fact involving and affecting the Class Members. The
8 questions of law and fact common to the Class Members predominate over any questions affecting
9 only individual Class Members, including but not limited to the following:

- 10 a. Whether Defendants had a policy and practice or providing, lawful timely
11 meal periods in accordance with the requirements of Labor Code § 512, as
12 well as the applicable IWC wage order;
- 13 b. Whether the alleged meal period waivers required by Defendants are lawful;
- 14 c. Whether Defendants had a policy and practice of complying with Labor Code
15 § 226.7 on each instance that a meal period was not timely, lawfully provided;
- 16 d. Whether Defendants paid the premium pay owed for non-compliant meal and
17 rest periods at the employee's regular rate;
- 18 e. Whether Defendants authorized and permitted all requisite net ten-minute
19 rest periods for every four hours worked or major fraction thereof – one for
20 shifts in excess of 3.5 hours, two for shifts in excess of six hours, and three
21 for shifts in excess of ten hours;
- 22 f. Whether Defendants authorized and permitted lawful, paid net ten-minute
23 rest periods as required by law;
- 24 g. Whether Defendants had a policy and practice of complying with Labor Code
25 § 226.7 on each instance that a rest period was not lawfully authorized and
26 permitted;
- 27 h. Whether Defendants had a policy and practice of requiring employees to
28 perform work off the clock;

- i. Whether Defendants had a policy and practice of requiring employees to share a portion of their tips with the Chef/Owner of the restaurant;
- j. Whether Defendants requirement that employees share tips with a part-owner of the restaurant is lawful;
- k. Whether Defendants violated the Labor Code by failing to pay overtime;
- l. Whether Defendants violated the Labor Code by failing to pay the employees for all time worked;
- m. Whether Defendants had a policy and practice of intentionally altering and falsifying employees' time records;
- n. Whether Defendants maintained accurate records as required by the IWC Wage Order and Labor Code sections 226 and 1174;
- o. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violations of California law;
- p. Whether Defendants violated the Labor Code and applicable IWC Wage Orders by failing to, among other violations, maintain accurate records of Class Members' earned wages, rates used to calculate such wages, work periods, meal periods, deductions and proper overtime calculations;
- q. Whether Defendants violated sections 226 of the Labor Code and applicable IWC Wage Orders by failing to provide accurate, itemized, wage statements;
- r. Whether Defendants by way of the conduct alleged herein, engaged in unfair acts or practices in violation of California trade practices laws, including but not limited to, California Business & Professions Code § 17200, et seq., for which Plaintiffs and Class Members are entitled to recover;
- s. Whether Defendants by way of the conduct alleged herein, engaged in violations of California Labor Code section 2698, et. seq., the Private Attorneys General Act of 2004 ("the PAGA").
- t. Whether Defendants conduct was willful;

1 u. Whether Plaintiffs and Class Members have been damaged by Defendants'
2 actions or conduct; and

3 v. Whether declaratory and injunctive relief are appropriate to curtail
4 Defendants' conduct as alleged herein.

5 **C. Typicality**

6 48. The claims of Plaintiffs are typical of the claims which could be alleged by members
7 of the proposed class, and the relief sought by Plaintiffs is typical of the relief which could be sought
8 by members of the proposed class in individual actions. Plaintiffs are qualified to, and will fairly
9 and adequately protect the interests of each member of the Class with whom he or she has a well-
10 defined community of interest. All members of the proposed Class were subject to the same policies
11 and practices of Defendants and have been similarly harmed by Defendants' misconduct. The
12 factual bases of Defendants' misconduct are common to all Class Members and represent a common
13 thread of unfair and unlawful conduct resulting in injury to all members of the Class. Further,
14 Defendants benefited from the same type of unfair and/or wrongful acts as to each member of the
15 Class.

16 **D. Adequacy of Representation**

17 49. Plaintiffs are qualified to, and will fairly and adequately protect the interests of each
18 member of the Class with whom he or she has a well-defined community of interest and typicality
19 of claims, as demonstrated herein. Plaintiffs acknowledge that he or she has an obligation to make
20 known to the Court any relationships, conflicts, or differences with any member of the Class, and
21 no such relationships or conflicts are currently known to exist. Plaintiffs have retained counsel who
22 are competent and experienced in the prosecution of class action wage and hour violations.
23 Plaintiffs' attorneys and the proposed counsel for the Class are versed in the rules governing class
24 action discovery, certification, litigation, and settlement and experienced in handling such matters.
25 Other former and current employees of Defendants may also serve as representatives of the Class if
26 needed.

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1 **E. Superiority of the Class Action**

2 50. The nature of this action makes the use of class action adjudication superior to other
3 methods. A class action will achieve economies of time, effort, judicial resources, and expense,
4 which would not be achieved with separate lawsuits. The prosecution of separate actions by
5 individual members of the Class would create a risk of inconsistent and/or varying adjudications
6 with respect to the individual members of the Class, establishing incompatible standards of conduct
7 for the Defendants, and resulting in the impairment of the rights of the members of the Class and
8 the disposition of their interests through actions to which they were not parties. Thus, a class action
9 is superior to other available means for the fair and efficient adjudication of this controversy because
10 joinder of all Class Members is not practicable, and questions of law and fact common to the Class
11 predominate over any questions affecting only individual Class Members. Each member of the Class
12 has been damaged and is entitled to recovery by reason of Defendants' unlawful policies and
13 practices, including failing to compensate Class Members for all earned wages, including premium
14 wages, overtime and minimum wage earned; denying Class Members lawful meal and rest periods;
15 failing to pay Class Members and additional hour of pay at the regular rate for non-compliant meal
16 and rest periods; and failing to provide accurate itemized wage statements. Class action treatment
17 will allow those similarly situated persons to litigate their claims in the manner that it most efficient
18 and economical for both parties and the judicial system. Plaintiffs are unaware of any difficulties
19 that would preclude its maintenance as a class action.

20 51. Adequate notice can be given to Class Members directly using information
21 maintained in Defendants' records and/or through notice by publication or other reasonable means.

22 52. Accordingly, for all these and other reasons, a class action is superior to other
23 available methods for the fair and efficient adjudication of the controversy set forth in this
24 Complaint.

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1 **FIRST CAUSE OF ACTION**

2 **(Against all Defendants)**

3 **(Failure to Pay Overtime Wages Pursuant to Labor Code § § 510, 1194 et seq., 1198;**
4 **Wage Order No. 5-2001 ¶ 3)**

5 53. Plaintiffs incorporate by reference and reallege each and every allegation contained
6 above, as though fully set forth herein.

7 54. California Labor Code § 510(a) provides, in pertinent part, as follows:

8 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
9 one workday and any work in excess of 40 hours in one workweek and the first eight
10 hours worked on the seventh day of work in any one workweek shall be compensated
11 at the rate of no less than one and one-half times the regular rate of pay for an
12 employee. Any work in excess of 12 hours in one day shall be compensated at the
13 rate of no less than twice the regular rate of pay for an employee.

14 55. California Labor Code § 1194 provides, in pertinent part, as follows:

15 any employee receiving less than the...legal overtime compensation applicable to
16 the employee is entitled to recover in a civil action the unpaid balance of the full
17 amount of this...overtime compensation, including interest thereon, reasonable
18 attorney's fees, and costs of suit.

19 56. Paragraph 3(A) of the Wage Order provides, in pertinent part, as follows:

20 [E]mployees shall not be employed more than eight (8) hours in any workday or
21 more than 40 hours in any workweek unless the employee receives one and one-half
22 times such employee's regular rate of pay for all ours worked over 40 in the
23 workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond
24 eight (8) hours in any workday or more than six (6) days in any workweek is
25 permissible provided the employee is compensated for such overtime at not less than:

26 ***

27 (b) Double the employee's regular rate of pay for all hours worked in excess of 12
28 hours in any workday and for all hours works in excess of eight (8) hours on the
seventh (7th) consecutive day of work in a workweek.

57. Plaintiffs and the Class members did not receive proper compensation for all hours
worked in excess of eight (or twelve) hours per day or forty hours per week, or for working more
than six days in a workweek.

58. By their conduct described above, Defendants required and/or suffered employees to
work both before and after clocking in – sometimes for hours at a time – as well as during unpaid
meetings. Thus, on numerous occasions, employees worked in excess of eight hours per day, but
Defendants' time records falsely indicated such employees' worked shorter hours and were not
entitled to overtime wages.

1 59. During all relevant periods, both the California Labor Code and the pertinent
2 Industrial Welfare Commission Wage Orders required that all work performed by an employee in
3 excess of 8 hours per day and 40 hours per week be compensated at one- and one-half times the
4 employee's regular rate of pay. Defendants failed to properly calculate and pay overtime wages for
5 overtime hours worked. Defendants Tin Vuong, and Jorge Valines, either as Plaintiff's employer
6 and/or as persons acting on behalf of Plaintiff's employer, violated, or caused to be violated, Labor
7 Code sections 510, and provisions regulating the hours and days of work in the applicable IWC
8 Wage Orders, as proscribed by Labor Code section 558. Defendants Vuong and Valines created,
9 implemented, administered, and/or authorized the practices alleged to have occurred herein, such
10 that Plaintiffs, class members, and aggrieved employees failed to receive all overtime wages earned,
11 in violation of Labor Code section 558. As such, all Defendants are liable for all civil penalties as
12 provided by Labor Code section 558.

13 60. As a result of the wrongful and unlawful acts of Defendants alleged herein, Plaintiffs
14 and the Class members have been deprived of overtime compensation in amounts to be determined,
15 and are entitled to recovery of said amounts according to proof, interest thereon, injunctive relief,
16 attorney's fees and costs.

17 **SECOND CAUSE OF ACTION**
18 **(Against Defendant Bluegold)**
19 **(Failure to Pay for All Hours Worked Pursuant to Labor Code §§ 201-203, 221, 223;**
20 **Wage Order No. 5-2001 ¶¶ 4(B))**

21 61. Plaintiffs incorporate by reference and reallege each and every allegation contained
22 above, as though fully set forth herein.

23 62. Paragraph 4(B) of the Wage Order provides that all employers must "pay to each
24 employee, on the established payday for the period involved, not less than the applicable minimum
25 wage for all hours worked in the payroll period..."

26 63. Pursuant to Paragraph 11 of the Wage Order, "[u]nless the employee is relieved of
27 all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal
28 period and *counted as time worked*" (emphasis added). Defendants routinely required and/or
suffered Plaintiffs and Class members to work through their meal periods. Defendants altered time

1 records to reflect that meal periods were taken, but in reality were not taken. Plaintiffs and Class
2 members were never compensated for the time worked during their purported meal periods, in
3 violation of Paragraphs 4(B) and 11.

4 64. At times Defendants likewise required or suffered Plaintiffs and Class members to
5 attend meetings. Defendants did not permit Plaintiffs or the Class members to clock in for such
6 meetings and other time spent working before clocking in, and as a result, Plaintiff and the Class
7 members were not paid for time spent during that time.

8 65. Defendants routinely required or suffered Plaintiffs and the Class Members to
9 perform work off the clock at the end of a shift, including but not limited to time spent continuing
10 to perform their regular duties, performing other tasks that needed to be completed but were not
11 completed during the shift, and/or completing tasks after clocking out to avoid staying for a putative
12 unpaid 30-minute “meal” period. Plaintiffs and the Class members were never compensated for this
13 off-the-clock labor, in violation of Paragraph 4(B).

14 66. Defendants failed and continue to fail to pay Plaintiffs and Class Members for all
15 hours worked by following a policy and practice of encouraging, permitting, forcing, and/or
16 ratifying managers and supervisors routinely to edit or delete time recorded in Defendants’
17 computerized records by the clock-in and clock-out system. These policies and practices have
18 resulted in Defendants’ paying Plaintiffs and the Class Members for less time than they have actually
19 worked, and at times have resulted in a failure to pay overtime wages earned by working more than
20 eight hours in a day and/or more than forty hours in a week.

21 67. As a result of the wrongful and unlawful acts of Defendants alleged herein, Plaintiffs
22 and the Class members have been deprived of compensation for all hours worked in amounts to be
23 determined, and are entitled to recovery of said amounts according to proof, interest thereon,
24 injunctive relief, attorney’s fees and costs.

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THIRD CAUSE OF ACTION
(Against all Defendants)
**(Failure to Provide Lawful Meal Periods Pursuant to Labor Code §§ 226.7, 512;
Wage Order No. 5-2001 ¶ 11)**

68. Plaintiffs incorporate by reference and reallege each and every allegation contained above, as though fully set forth herein.

69. California Labor Code § 512 provides, in pertinent part, as follows:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and the employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 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.

70. California Labor Code § 226.7(a) provides: “No employer shall require an employee to work during any meal...period mandated by an applicable order of the Industrial Welfare Commission.”

71. Paragraph 11(A) of the Wage Order provides, in pertinent part, as follows: “Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked.”

72. As alleged herein, Plaintiff and the Class members routinely and uniformly were not provided with meal periods and instead were required to forego the meal periods required to be provided to them by all Defendants. Defendants Tin Vuong, and Jorge Valines, either as Plaintiff’s employer and/or as persons acting on behalf of Plaintiff’s employer, violated, or caused to be violated, Labor Code sections 512, and provisions regulating the hours and days of work in the applicable IWC Wage Orders, as proscribed by Labor Code section 558. Defendants Vuong and Valines created, implemented, administered, and/or authorized the practices alleged to have occurred herein, such that Plaintiffs, class members, and aggrieved employees failed to compliant meal breaks, or compensation for missed meal breaks, in violation of Labor Code section 512. As such, all Defendants are liable for all civil penalties as provided by Labor Code section 558.

73. By failing to provide Plaintiffs and the Class members with these meal periods, Defendants violated California Labor Code sections 512 and 226.7, as well as applicable provisions of the Wage Order.

74. As a result of the unlawful acts of Defendants set forth herein, Plaintiffs and each Class member have been unfairly and illegally deprived of up to two meal periods per day, and are entitled to one additional hour of premium pay for each missed meal period.

FOURTH CAUSE OF ACTION
(Against Defendant Bluegold)
(Failure to Authorize and Permit Lawful Rest Periods Pursuant to Labor Code § 226.7 and Wage Order No. 5-2001 ¶ 12)

75. Plaintiffs incorporate by reference and reallege each and every allegation contained above, as though fully set forth herein.

76. Paragraph 12(A) of the Wage Order authorizes employees to take paid rest periods based on the total hours worked daily at the rate of ten minutes rest per four hours or major fraction thereof.

77. California Labor Code § 226.7(a) provides: “No employer shall require an employee to work during any.... rest period mandated by an applicable order of the Industrial Welfare Commission.”

78. Plaintiffs and Class members routinely and uniformly were not provided with the rest periods required to be provided to them, which amounted to a total of one to three rest periods per day, depending upon the actual length of the employee’s workday.

79. By failing to provide Plaintiffs and the Class members with these rest periods, Defendants violated Paragraph 12 of the Wage Order and California Labor Code section 226.7.

80. As a result of the unlawful acts of Defendants set forth herein, Plaintiffs and each Class member have been unfairly and illegally deprived of up to three rest periods per day, and are entitled to one additional hour of premium pay for each missed rest period.

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FIFTH CAUSE OF ACTION
(Against Defendant Bluegold)
(Violation of Split Shift Premium Pay Pursuant to Wage Order No. 5-2001 ¶ 4)

81. Plaintiffs incorporate by reference and reallege each and every allegation contained above, as though fully set forth herein.

82. Paragraph 2(R) of the Wage Order defines “split shift” as a work schedule which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.” Paragraph 4(C) requires that “[w]hen an employee works a split shift, one hour’s pay at the minimum wage shall be paid in addition to the minimum wage for that workday.”

83. As alleged above, Defendants routinely scheduled employees, including Plaintiffs, to work “doubles,” *e.g.*, to work both the lunch and dinner shift in the same day. In addition, Defendants scheduled meetings that employees, including Plaintiffs, were required to attend hours before working their shifts scheduled for later in the same day. Defendants failed to pay these employees split shift premiums.

84. As a result of the wrongful and unlawful acts of Defendants alleged herein, Plaintiffs and the Class members have been deprived split shift premium pay in amounts to be determined, and are entitled to recovery of said amounts according to proof, interest thereon, injunctive relief, attorney’s fees and costs.

SIXTH CAUSE OF ACTION
(Against Defendant Bluegold)
(Statutory Penalties for Violation of Record Keeping Requirements Pursuant to Labor Code § 226(a); Wage Order No. 5-2001 ¶ 4)

85. Plaintiffs incorporate by reference and reallege each and every allegation contained above, as though fully set forth herein.

86. California Labor Code § 226(a) provides, in pertinent part, as follows:

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing...gross wages earned,... total hours worked by the employee... [and] all deductions...and...all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

87. IWC Wage Order No. 5-2001 Paragraph 7 provides additionally, in pertinent part, as follows:

1 Every employer shall keep accurate information with respect to each employee
2 including the following:

3 * * *

4 (3) Time records showing when the employee begins and ends each work period.
Meal periods, split shift intervals and total daily hours worked shall also be recorded...

5 (5) Total hours worked in the payroll period and applicable rates of pay.

6 * * *

7 Every employer shall semimonthly or at the time of each payment of wages furnish
each employee...an itemized statement in writing showing: (1) all deductions...

8 88. Defendants violated the above Labor Code section and Wage Order provision with
9 respect to the Plaintiffs and the Class members by failing to keep accurate time records showing all
10 hours worked and failing to provide accurate itemized statements of earnings and the amounts
11 lawfully deducted from wages.

12 89. California Labor Code § 226(e) provides, in pertinent part, as follows:

13 An employee suffering injury as a result of a knowing and intentional failure by an
14 employer to comply with subdivision (a) is entitled to recover the greater of all actual
15 damages of fifty dollars (\$50) for the initial pay period in which a violation occurs
16 and one hundred dollars (\$100) per employee for each violation in a subsequent pay
period, not exceeding an aggregate penalty of four thousand dollars (\$4000), and is
entitled to an award of costs and reasonable attorney's fees.

17 90. California Labor Code § 226(g) provides, in pertinent part, as follows: "An employee
18 may also bring an action for injunctive relief to ensure compliance with this section, and is entitled
19 to an award of costs and reasonable attorney's fees."

20 91. Defendants' violations of the Labor Code section and the Wage Order recited above
21 have been knowing and intentional.

22 92. Plaintiff and the Class members have been misled, misinformed, deceived,
23 defrauded, underpaid and otherwise injured as a result of said violations.

24 93. As a result of the aforesaid wrongful and illegal conduct of Defendants, Plaintiffs
25 and each Class member herein are entitled to penalties in the amount of \$50 for the initial pay period
26 for each violation by Defendants, and \$100 for each such violation in every subsequent pay period
27 during the relevant limitations period.

94. As a result of the aforesaid wrongful and illegal conduct of Defendants, Plaintiffs and the Class members are also entitled to injunctive relief, costs and attorney's fees.

SEVENTH CAUSE OF ACTION
(Against Defendant Bluegold)
(Waiting Time Pay Pursuant to Labor Code §§ 201-203, 206)

95. Plaintiffs incorporate by reference and reallege each and every allegation contained above, as though fully set forth herein.

96. California Labor Code § 201(a) provides, in pertinent part, as follows: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

97. California Labor Code § 202(a) provides, in pertinent part, as follows:

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.

98. California Labor Code § 206(a) provides, in pertinent part, as follows:

In case a dispute over wages, the employer shall pay, without condition, and within the time set by this article, all wages, or parts thereof, conceded by him to be due, leaving to the employee all remedies he might otherwise be entitled to as to any balance claimed.

99. Where an employer willfully fails to pay, without abatement or reduction, in accordance with sections 201 through 203 of the California Labor Code, all wages due to an employee who has been discharged or has quit, California Labor Code section 203 entitles the affected employee to receive from the employer a penalty of up to 30 days wages calculated from the due date of the wages until the time an action to recover the wages is commenced.

100. As alleged herein, Defendants failed to pay earned wages (including but not limited to overtime compensation, premium pay for missed meal and rest breaks, reporting time pay, and split shift premiums) to Plaintiffs and Class members at the time they became due and payable, and have thus violated sections 201, 202, and 206 of the California Labor Code.

101. Defendants' failure to pay wages as alleged herein was willful in that Defendants knew that Plaintiffs and the Class members were not receiving all of their earned compensation because, *inter alia*, Defendants knew Plaintiffs and the Class members did not receive all of the wages to which they were entitled, including (without limitation) overtime and reporting time pay.

102. As a result of Defendants' willful, unlawful acts discussed herein, Plaintiffs and all other terminated Class members are each entitled to recover, pursuant to California Labor Code section 203, continuing wages as a penalty for a total of 30 days.

EIGHTH CAUSE OF ACTION
(Against Defendant Bluegold)
(Unjust Enrichment/Constructive Trust Pursuant to California
Civil Code §§ 2223, 2224)

103. Plaintiffs incorporate by reference and reallege each and every allegation contained above, as though fully set forth herein.

104. Defendants knowingly and intentionally failed to pay Plaintiffs and the Class members all compensation for employment that was and is due to them under the law.

105. The work performed by the Plaintiffs and the Class members, for which they have not received full and fair compensation, was at the direction and behest of Defendants. Plaintiffs and the Class members did not perform this work gratuitously, but with the expectation that they would receive wages and compensation in amounts and in a manner that fully complied with the law.

106. Said underpaid compensation is rightfully the property of Plaintiffs and the Class members.

107. Defendants' retention of said underpaid wages is wrongful, inequitable, and represents an unjust enrichment of Defendants, to the detriment of the Plaintiffs and the Class members. Defendants wrongful retention of such underpaid wages and premium pay makes them involuntary trustees of said property, and as such Defendants have a duty to re-convey to Plaintiffs and the Class members said unpaid and underpaid wages and premium pay that is rightfully the property of Plaintiffs and the Class members.

NINTH CAUSE OF ACTION
(Against All Defendants)
(Violations of Unfair Competition Law Pursuant To California
Business & Professions Code §§ 17200, *et seq.*)

108. Plaintiffs incorporate by reference and reallege each and every allegation contained above, as though fully set forth herein.

109. By their actions described in this Complaint, Defendants committed unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code section 17200 et seq. (“the UCL”).

110. California Labor Code § 90.5(a) states that it is public policy of California to vigorously enforce minimum labor standards in order to ensure that employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those employers who try to gain competitive advantage by not so complying, at the expense of the health, safety and welfare of their employees.

111. As set forth above, Defendants failed and refused to provide timely, off-duty meal periods to their employees; failed and refused to provide rest breaks; failed and refused to compensate employees for such missed or untimely breaks; failed to properly pay employees for all hours worked; failed to properly pay overtime; failed to pay reporting time pay and split shift premiums; failed to timely pay all wages earned at the time of termination; and failed to comply with recordkeeping and wage statement requirements. As a result of these actions, Defendants engaged in unfair competition within the meaning of the UCL because their conduct has violated state wage and hour laws and policies, including but not limited to Labor Code sections 201, 202, 203, 204, 221, 223, 226, 226.7, 510, 512, 558, 1194 *et seq.*, 1198 and Paragraphs 3, 4, 5, 7, 11, and 12 of the Wage Orders. In Defendants Tin Vuong, and Jorge Valines, either as Plaintiff’s employer and/or as persons acting on behalf of Plaintiff’s employer, violated, or caused to be violated, Labor Code sections 510 and 512, and provisions regulating the hours and days of work in the applicable IWC Wage Orders, as proscribed by Labor Code section 558. Defendants Vuong and Valines created, implemented, administered, and/or authorized the practices alleged to have occurred herein,

1 such that Plaintiffs, class members, and aggrieved employees failed to receive all overtime wages
2 earned, and compliant meal breaks, in violation of Labor Code section 558.

3 112. In addition, it has been Defendants' custom, policy and practice to fail and refuse to
4 pay the Plaintiffs and the Class members all earned wages at the time such wages became due and
5 payable. Specifically, Defendants failed to timely pay earned wages (*e.g.*, overtime compensation
6 and premium pay for missed or untimely meal breaks and for missed rest breaks) as required by
7 Labor Code section 204. This conduct likewise constitutes unfair competition.

8 113. Defendants destroyed and/or altered Plaintiffs' and the Class members' time records
9 to create a false appearance that Plaintiffs and the Class members were provided with timely, 30-
10 minute meal breaks, or that no such breaks were required. Such conduct violates Labor Code section
11 226 and Paragraph 7 of the Wage Order. Plaintiffs reasonably relied on Defendants to keep accurate
12 and complete records of their time worked and to pay them all earned wages. They have been harmed
13 by Defendants destruction and falsification of time records. Defendants conduct as alleged in this
14 paragraph therefore also constitutes unfair competition under the UCL.

15 114. Defendants conduct as described herein has been anti-competitive and injurious to
16 Defendants' competitors who complied with the laws and policies violated by Defendants, as
17 Defendants' conduct provided an unfair and illegal advantage in the marketplace as a result of, *inter*
18 *alia*, paying less for the labor of their employees than required by law.

19 115. Defendants' conduct has injured each Plaintiff and Class member by, *inter alia*,
20 wrongfully denying them earned wages, overtime pay, premium pay, and meal and rest periods. As
21 such, Plaintiffs and the Class members are entitled to restitution and injunctive relief.

22 **TENTH CAUSE OF ACTION**

23 **(Against All Defendants)**

24 **(Violations of the Private Attorneys General Act of 2004 (the "PAGA")**
25 **Pursuant To Labor Code § 2698, *et seq.*)**

26 116. Plaintiffs incorporate by reference and reallege each and every allegation contained
27 above, as though fully set forth herein.

28 117. As set forth above, Defendants failed and refused to provide timely, off-duty meal
periods to their employees; failed and refused to provide rest breaks; failed and refused to
compensate employees for such missed or untimely breaks; failed to properly pay employees for all

1 hours worked; failed to properly pay overtime; failed to pay reporting time pay and split shift
2 premiums; failed to timely pay all wages earned at the time of termination; and failed to comply
3 with recordkeeping and wage statement requirements. As a result of these actions, Defendants
4 violated applicable California Labor Code sections, including but not limited to Labor Code sections
5 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1194, and gives rise to statutory and civil
6 penalties as a result of such conduct, including but not limited to penalties as provided by Labor
7 Code sections 2698, 2699(f), 2699.3, and 2699.5, and applicable Industrial Welfare Commission
8 Wage Orders. Plaintiffs, and putative Class Members, as aggrieved employees, hereby seek
9 recovery of civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004
10 on behalf of themselves.

11 118. On January 28, 2022, Plaintiffs exhausted their administrative resources by filing a
12 PAGA complaint with the California Department of Industrial Relations, alleging that Defendants
13 violated the California Labor Code.

14 119. Plaintiffs, and putative Class Members, seek attorneys' fees to achieve the same,
15 pursuant to the Labor Code section 2699(g)(1).

16
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray for judgment and relief as follows:

- 19 1. An order certifying that the action may be maintained as a class action;
 - 20 2. Compensatory and statutory damages, penalties and restitution, as appropriate and
21 available under each cause of action;
 - 22 3. Reasonable attorneys' fees pursuant to California Labor Code sections 218.5, 1194(a),
23 and 2698, et seq.;
 - 24 4. Costs of this suit;
 - 25 5. Pre- and post-judgment interest; and
 - 26 6. Such other and further relief as the Court deems just and proper.
- 27
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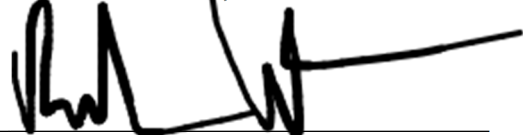
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DEMAND FOR JURY TRIAL

Plaintiffs DAN CAMERON, FRANK GONZALEZ, NICOLE HACKMAN, and STEVEN FRENCH, *et al.* hereby demand a trial by jury for all claims so triable.

Date: April 22, 2022

WORKMAN LAW FIRM, PC

By: 

Robin G. Workman
Attorneys for Plaintiffs Dan Cameron, Frank Gonzalez, Nicole Hackman and Steven French, on behalf of themselves and all others similarly situated