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himself and all others similarly situated and aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

JOSEPH D. HERNANDEZ on behalf
of himself and all others similarly
situated and aggrieved,

Plaintiff,

v.

BROMLEY FOODS, INC., a California
corporation; OCEAN VIEW FOODS, INC., a
California corporation; AMBERJACK
PARTNERS, LLC, a California limited
liability corporation; and DOES 1 through
100, inclusive,

Defendants.

CASE NO.: 56-2021-00561326-CU-OE-VTA

[Assigned for all purposes to the Hon. Henry Walsh in
Dept. 42]

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

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAGE STATEMENT VIOLATIONS;
6. FAILURE TO TIMELY PAY WAGES;
7. VIOLATION OF LABOR CODE § 1198.5;
8. FAILURE TO INDEMNIFY;
9. UNFAIR COMPETITION; and
10. CIVIL PENALTIES UNDER THE PRIVATE
ATTORNEYS GENERAL ACT (2004) FOR
VIOLATIONS OF LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1,
AND 2699, et seq.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000]

COME NOW Plaintiff JOSEPH D. HERNANDEZ (“Plaintiff”), on behalf of himself and all others similarly situated and aggrieved, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against BROMLEY FOODS, INC., and any of its respective subsidiaries or affiliated companies within the State of California (“BROMLEY”), OCEAN VIEW FOODS, INC. (“OCEAN VIEW”), and any of its respective subsidiaries or affiliated companies within the State of California, AMBERJACK PARTNERS, LLC, and any of its respective subsidiaries or affiliated companies within the State of California (“AMBERJACK” and, collectively with BROMLEY, OCEAN VIEW, and DOES 1 through 100, as further defined below, “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants (“Class Members”).

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Defendants, and any of their respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiffs and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for violations of the Labor Code, including but not limited to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, *et seq.*, Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

PARTIES

A. Plaintiff

3. Plaintiff JOSEPH D. HERNANDEZ is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed Plaintiff JOSEPH D. HERNANDEZ as a non-exempt employee, with duties

that included, but were not limited to, labeling and restocking supplies. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff JOSEPH D. HERNANDEZ worked for Defendants from approximately December of 2019 through approximately October of 2021.

B. Defendants

4. Plaintiff is informed and believes and based thereon allege that Defendant BROMLEY is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of Ventura, State of California.

5. Plaintiff is informed and believes and based thereon alleges that Defendant OCEAN VIEW is, and at all times relevant hereto was a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of Ventura, State of California.

6. Plaintiff is informed and believes and based thereon alleges that Defendant AMBERJACK is, and at all times relevant hereto was a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of Ventura, State of California.

7. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed and believes and based thereon alleges that each of the defendants designated herein as DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this First Amended Complaint to reflect the true names and capacities of the defendants designated hereinafter as DOES when such identities become known. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall include BROMLEY, OCEAN VIEW,

1 AMBERJACK, and any of their parent, subsidiary, or affiliated companies within the State of
2 California, as well as DOES 1 through 100 identified herein.

3 **JOINT LIABILITY ALLEGATIONS**

4 8. Plaintiff is informed and believes and based thereon alleges that all the times
5 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
6 representative, joint venture or co-conspirator of each of the other defendants, either actually or
7 ostensibly, and in doing the things alleged herein acted within the course and scope of such
8 agency, employment, joint venture, and conspiracy.

9 9. All of the acts and conduct described herein of each and every corporate defendant
10 was duly authorized, ordered, and directed by the respective and collective defendant corporate
11 employers, and the officers and management-level employees of said corporate employers. In
12 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
13 their said employees, agents, and representatives, and each of them; and upon completion of the
14 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
15 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
16 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
17 aforementioned corporate employees, agents and representatives.

18 10. Plaintiff is informed and believes, and based thereon allege, that there exists such a
19 unity of interest and ownership between Defendants, and each of them, that their individuality and
20 separateness have ceased to exist.

21 11. As a result of the aforementioned facts, Plaintiff is informed and believes, and
22 based thereon alleges that Defendants, and each of them, are joint employers.

23 **JURISDICTION**

24 12. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
25 of Civil Procedure section 410.10.

26 13. Venue is proper in Ventura County, California pursuant to Code of Civil Procedure
27 sections 392, et seq. because, among other things, Ventura County is where the causes of action
28 complained of herein arose; the county in which the employment relationship began; the county in

1 which performance of the employment contract, or part of it, between Plaintiff, or some of them,
2 and Defendants was due to be performed; the county in which the employment contract, or part of
3 it, between Plaintiff, or some of them, and Defendants was actually performed; and the county in
4 which Defendants, or some of them, reside. Moreover, the unlawful acts alleged herein have a
5 direct effect on Plaintiff and Class Members in Ventura County, and because Defendants employ
6 numerous Class Members in Ventura County.

7 14. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
8 Defendants during the applicable statutory period and suffered one or more of the Labor Code
9 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term
10 “civil penalty” is defined under ZB N.A. v. Superior Court (2019) 8 Cal.5th 175, under the Labor
11 Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq.
12 (“PAGA”) plus reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current
13 and former employees of Defendants during the Civil Penalty Period.

14 15. Specifically, Plaintiff seeks to recover the PAGA civil penalties through a
15 representative action permitted by PAGA and the California Supreme Court in, among other
16 authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities,
17 class certification of the PAGA allegations described herein is not required.

18 16. During the period beginning one (1) year preceding the provision of notice to the
19 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
20 Defendants violated, inter alia, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
21 226.3, 226.7, 227.3, 232, 232.5, 246, et seq., 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194,
22 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

23 17. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
24 such as Plaintiff, on behalf of himself and all other aggrieved current and former employees within
25 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
26 specified in Labor Code section 2699.3.

27 18. On or around January 25, 2022, Plaintiff provided written notice pursuant to Labor
28 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’

violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them.

19. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65) calendar days of the January 25, 2022 postmarked date of the herein-described notice sent by Plaintiffs to the LWDA and Defendants.

FACTUAL BACKGROUND

20. 21. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or some of them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven consecutive work days in a work week without being properly compensated for hours worked in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours worked on the seventh consecutive work day in a work week by, among other things, failing to accurately track and/or pay for all hours actually worked at the proper overtime rate of pay, to the detriment of Plaintiff and Class Members.

21. For at least four (4) years prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members, or some of them, in violation of California state wage and hour laws as a result of, among other things, at times, failing to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the minimum wage, to the detriment of Plaintiff and Class Members.

22. For at least four (4) years prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them, full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on which they worked in excess of ten (10) hours in a work day, and failing to provide compensation for such unprovided meal periods as required by California wage and hour laws.

23. For at least four (4) years prior to the filing of this action and continuing to the

1 present, Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or
2 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major
3 fraction thereof and failed to provide compensation for such unprovided rest periods as required
4 by California wage and hour laws.

5 24. For at least three (3) years prior to the filing of this action and continuing to the
6 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them,
7 the full amount of their wages owed to them upon termination and/or resignation as required by
8 Labor Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
9 minimum wages, and premium wages.

10 25. For at least one (1) year prior to the filing of this Action and continuing to the
11 present, Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them,
12 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
13 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
14 number of hours worked at each hourly rate, and other such information as required by Labor
15 Code section 226, subdivision (a). As a result thereof, Defendants have further failed to furnish
16 employees with an accurate calculation of gross and gross wages earned, as well as gross and net
17 wages paid.

18 26. For at least one (1) year prior to the filing of this action and continuing to the
19 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them,
20 the full amount of their wages for labor performed in a timely fashion as required under Labor
21 Code section 204.

22 27. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this
23 action pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226,
24 226.7, 510, 512, 558.1, 1194, 1194.2, 1197, and California Code of Regulations, Title 8, section
25 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal
26 and rest periods, failure to pay timely wages, waiting time penalties, wage statement penalties,
27 other such provisions of California law, and reasonable attorneys' fees and costs.

28 28. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to

1 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
2 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
3 appropriate and effective means to prevent further violations, as well as all monies owed but
4 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
5 restitution of amounts owed.

6 29. At all relevant times herein, Defendants had and have a policy or practice of failing
7 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
8 separation of employment as wages at their final rate of pay in violation of Labor Code section
9 227.3 and applicable Wage Orders.

10 30. At all relevant times mentioned herein, Defendants have had a policy or practice of
11 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
12 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
13 Employees with the rates of pay and overtime rates of pay applicable to their employment;
14 allowances claimed as part of the minimum wage; the regular payday designated by Defendants;
15 the name, address, and telephone number of the workers' compensation insurance carrier;
16 information regarding paid sick leave; and other pertinent information required to be disclosed by
17 Defendants under Labor Code section 2810.5.

18 31. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
19 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
20 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
21 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
22 all other Aggrieved Employees.

23 32. At all relevant times mentioned herein, Defendants have had a policy or practice of
24 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
25 Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of
26 any calendar month shall be paid for between the 16th and 26th day of the month during which the
27 labor was performed, and labor performed between the 16th and the last day, inclusive of any
28 calendar month, shall be paid for between the 1st and 10th day of the following month."

33. Plaintiff, in his representative capacity, seeks civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved Employees pursuant to PAGA.

CLASS ACTION ALLEGATIONS

34. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and former non-exempt employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class action is provided to the class (collectively referred to as "Class Members").

35. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b) to amend or modify the class description with greater specificity, further divide the defined class into subclasses, and to further specify or limit the issues for which certification is sought.

36. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure section 382 because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity

37. The potential Class Members as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members employed by Defendants within the State of California.

38. Accounting for employee turnover during the relevant periods necessarily increases this number. Plaintiff alleges Defendants' employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

B. Commonality

39. There are questions of law and fact common to Class Members. These common questions include, but are not limited to:

- 1 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay
- 2 all hours worked at a proper overtime rate of pay?
- 3 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing
- 4 to pay for all other time worked at the employee's regular rate of pay and a
- 5 rate of pay that is greater than the applicable minimum wage?
- 6 C. Did Defendants violate Labor Code section 512 by not authorizing or
- 7 permitting Class Members to take compliant meal periods?
- 8 D. Did Defendants violate Labor Code section 226.7 by not providing Class
- 9 Members with additional wages for missed or interrupted meal periods?
- 10 E. Did Defendants violate applicable Wage Orders by not authorizing or
- 11 permitting Class Members to take compliant rest periods?
- 12 F. Did Defendants violate Labor Code section 226.7 by not providing Class
- 13 Members with additional wages for missed rest periods?
- 14 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay
- 15 Class Members upon termination or resignation all wages earned?
- 16 H. Are Defendants liable to Class Members for waiting time penalties under
- 17 Labor Code section 203?
- 18 I. Did Defendants violate Labor Code section 226, subdivision (a) by not
- 19 furnishing Class Members with accurate wage statements?
- 20 J. Did Defendants fail to pay Class Members in a timely fashion as required
- 21 under Labor Code section 204?
- 22 K. Did Defendants fail to indemnify Class Members for all necessary
- 23 expenditures or losses incurred in direct consequence of the discharge of
- 24 their duties or by obedience to the directions of Defendants as required
- 25 under Labor Code section 2802?
- 26 L. Did Defendants violate the Unfair Competition Law, Business and
- 27 Professions Code section 17200, *et seq.*, by their unlawful practices as
- 28 alleged herein?

1 M. Are Class Members entitled to restitution of wages under Business and
2 Professions Code section 17203?

3 N. Are Class Members entitled to costs and attorneys' fees?

4 O. Are Class Members entitled to interest?

5 C. **Typicality**

6 41. The claims of Plaintiff herein alleged are typical of those claims which could be
7 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
8 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
9 damages arising out of and caused by Defendants' common course of conduct in violation of laws
10 and regulations that have the force and effect of law and statutes as alleged herein.

11 D. **Adequacy of Representation**

12 42. Plaintiff will fairly and adequately represent and protect the interest of Class
13 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
14 hour class actions.

15 E. **Superiority of Class Action**

16 43. A class action is superior to other available means for the fair and efficient
17 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
18 questions of law and fact common to Class Members predominate over any questions affecting
19 only individual Class Members. Class Members, as further described therein, have been damaged
20 and are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in
21 the violation of the Labor Code at times, as set out herein.

22 44. Class action treatment will allow Class Members to litigate their claims in a manner
23 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware
24 of any difficulties that are likely to be encountered in the management of this action that would
25 preclude its maintenance as a class action

26 **FIRST CAUSE OF ACTION**

27 **(Failure to Pay Overtime Wages – Against All Defendants)**

28 45. Plaintiff realleges and incorporates by reference all of the allegations contained in

1 the preceding paragraphs as though fully set forth hereat.

2 46. At all relevant times, Plaintiff and Class Members were employees or former
3 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as
4 applicable Wage Orders.

5 47. At all times relevant to this First Amended Complaint, Labor Code section 510 was
6 in effect and provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of
7 eight hours in one workday and any work in excess of forty hours in any one workweek . . . shall
8 be compensated at the rate of no less than one and one-half times the regular rate of pay for an
9 employee.”

10 48. At all times relevant to this First Amended Complaint, Labor Code section 510
11 further provided that “[a]ny work in excess of 12 hours in one day shall be compensated at the rate
12 of no less than twice the regular rate of pay for an employee. In addition, any work in excess of
13 eight hours on any seventh day of a workweek shall be compensated at the rate of no less than
14 twice the regular rate of pay.”

15 49. Four (4) years prior to the filing of the Complaint in this Action through the
16 present, Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted
17 of more than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or
18 seven (7) consecutive workdays in a workweek, without being paid overtime wages for all hours
19 worked as a result of, including but not limited to, Defendants failing to accurately track and/or
20 pay for all hours actually worked at the proper overtime rate of pay, to the detriment of Plaintiff
21 and Class Members.

22 50. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
23 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight
24 workdays without properly compensating overtime wages at the proper overtime rate of pay,
25 Defendants, on occasion, willfully violated the provisions of the Labor Code, among others,
26 sections 510, 1194, and applicable IWC Wage Orders, and California law.

27 51. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
28 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,

1 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
2 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

3 **SECOND CAUSE OF ACTION**

4 **(Failure to Pay Minimum Wages – Against All Defendants)**

5 52. Plaintiff realleges and incorporates by reference all of the allegations contained in
6 the preceding paragraphs as though fully set forth hereat.

7 53. At all relevant times, Plaintiff and Class Members were employees or former
8 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage
9 Orders.

10 54. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and
11 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
12 Defendants' control.

13 55. For four (4) years prior to the filing of the Complaint in this Action through the
14 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
15 their regular rate of pay that is above the minimum wage, to the detriment of Plaintiff and Class
16 Members.

17 56. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
18 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
19 for all hours worked or otherwise due.

20 57. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
21 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled
22 to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
23 damages, reasonable attorneys' fees and costs of suit.

24 **THIRD CAUSE OF ACTION**

25 **(Failure to Provide Meal Periods – Against All Defendants)**

26 58. Plaintiff realleges and incorporates by reference all of the allegation contained in
27 the preceding paragraphs as though fully set forth hereat.

28 59. At all relevant times, Plaintiff and Class Members were employees or former

employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

60. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second timely meal period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.

61. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

62. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving the right to take them, as permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not provided compliant meal periods.

63. By their failure to provide Plaintiff and Class Members compliant meal periods as contemplated by Labor Code section 512, among other California authorities, and failing, at times, to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 512 and applicable Wage Orders.

64. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

65. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

66. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

67. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

68. California law and applicable Wage Orders require that employers “authorize and permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest period, and employees who work shifts of more than ten (10) hours must be provided thirty (30) minutes of paid rest period.

69. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee’s regular rate of compensation for each work day that the rest period is not provided.

70. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member’s regular rate of compensation on the occasions that Class Members were not authorized or permitted to take compliant rest periods.

71. By their failure, at times, to authorize and permit Plaintiff and Class Members to take rest periods contemplated by California law, and one (1) additional hour of pay at the employee’s regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

72. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for rest periods that they were not authorized or permitted to take.

73. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FIFTH CAUSE OF ACTION

(Failure to Pay Due Wages at Termination – Against All Defendants)

74. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

75. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable Wage Orders.

76. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Class Members who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation.

77. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years before the filing of the Complaint in this Action through the present, Defendants, due to the failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class Members all wages earned prior to resignation or termination in accordance with Labor Code sections 201 or 202.

78. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and Class Members all wages earned prior to termination or resignation in accordance with Labor

Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff and Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or resignation.

79. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to waiting time penalties from the date their earned and unpaid wages were due, upon termination or resignation, until paid, up to a maximum of thirty (30) days.

80. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned prior to termination or resignation.

81. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover waiting time penalties, interest, and their costs of suit, as well.

SIXTH CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements – Against All Defendants)

82. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

83. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

84. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement that accurately reflects, among other things, gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; and the name and address of the legal entity that is the employer, among other things.

85. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year before the filing of the Complaint in this Action through the present, Defendants failed to

1 comply with Labor Code section 226, subdivision (a) by adopting policies and practices that
2 resulted in their failure, at times, to furnish Plaintiff and Class Members with accurate itemized
3 statements that accurately reflect, among other things, gross wages earned; total hours worked; net
4 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
5 number of hours; and the name and address of the legal entity that is the employer, among other
6 things.

7 86. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
8 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
9 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
10 provided wage statements that Defendants knew were not accurate.

11 87. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
12 suffered injury. The absence of accurate information on Class Members' wage statements at times
13 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
14 mathematical computations to determine the amount of wages owed; causes difficulty and expense
15 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
16 about wages and amounts deducted from wages to state and federal governmental agencies, among
17 other things.

18 88. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
19 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
20 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
21 pay period, not to exceed an aggregate \$4,000.00 per employee.

22 89. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
23 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
24 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
25 attorneys' fees, and costs of suit.

26 **SEVENTH CAUSE OF ACTION**

27 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

28 90. Plaintiff realleges each and every allegation set forth in the preceding paragraphs

and incorporate each by reference as though fully set forth hereat.

91. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

92. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

93. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

94. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year before the filing of the Complaint in this Action through the present, Defendants employed policies and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with Labor Code section 204.

95. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200) for each subsequent violation in connection with each payment that was made in violation of Labor Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

96. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties, interest, and their costs of suit, as well.

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EIGHTH CAUSE OF ACTION

(Violation of Labor Code § 2802 – Against All Defendants)

97. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

98. At all relevant times, Plaintiff and Class Members were employees of Defendants covered by Labor Code section 2802.

99. California Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties . . .”

100. At all relevant times, Defendants failed and refused, and still fail and refuse, to reimburse Plaintiff and Class Members for the costs incurred, including but not limited to, purchase of tools, uniforms, and separately laundering their uniforms.

101. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have suffered damages in an amount subject to proof, to the extent they were not reimbursed for costs incurred in purchasing, without limitation, tools, uniforms, and costs incurred separately laundering their work uniforms from their other clothes in furtherance of their work duties for Defendants.

102. Pursuant to Labor Code section 2802, Code of Civil Procedure section 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover actual costs for their uniform purchase(s) and for costs incurred in purchasing tools and costs incurred separately laundering their work uniforms from their other clothes, reasonable attorneys’ fees and costs of suit.

NINTH CAUSE OF ACTION

(Unfair Competition – Against All Defendants)

103. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

104. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. Due to their unlawful

1 business practices in violation of the Labor Code, Defendants have gained a competitive
2 advantage over other comparable companies doing business in the State of California that comply
3 with their obligations to compensate employees in accordance with the Labor Code.

4 105. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
5 Members have suffered injury in fact and lost money or property. Plaintiff and Class Members
6 have been deprived of overtime compensation; minimum wage compensation; provision of meal
7 breaks or compensation in lieu thereof; provision of rest breaks or compensation in lieu thereof;
8 provision of all wages upon termination or resignation; from being provided with inaccurate wage
9 statements, inspection of complete sets of documents to which they are entitled under Labor Code
10 sections 226 and 1198.5; reimbursement for costs incurred in furtherance of job duties; and
11 interest accrued on uniform deposits, among other things.

12 106. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
13 Members are entitled to restitution of all wages and other monies owed to them under the Labor
14 Code, including interest thereon, in which they had a property interest and which Defendants
15 nevertheless failed to pay them and instead withheld and retained for themselves. Restitution of
16 the money owed to Plaintiff and Class Members is necessary to prevent Defendants from
17 becoming unjustly enriched by their failure to comply with the Labor Code.

18 107. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
19 Procedure section 1032 and interest under Civil Code section 3287.

20 **TENTH CAUSE OF ACTION**

21 **(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

22 108. Plaintiff realleges and incorporates by reference all of the allegations contained in
23 the preceding paragraphs as though fully set forth hereat.

24 **Civil Penalties Under Labor Code § 210**

25 109. At all relevant times herein, Labor Code section 204, requires and required that:
26 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid
27 for between the 16th and 26th day of the month during which the labor was performed, and labor
28 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for

1 between the 1st and 10th day of the following month.”

2 110. At all relevant times herein, Labor Code section 210, subdivision (a) states and
3 stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in
4 this article, every person who fails to pay the wages of each employee as provided in Sections
5 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1)
6 For any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and
7 “(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars
8 (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

9 111. At all relevant times herein, Defendants have had a consistent policy or practice of
10 failing to pay Plaintiffs and/or Aggrieved Employees during their employment on a timely basis as
11 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
12 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
13 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
14 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
15 for each subsequent violation in connection with each payment that was made in violation of
16 Labor Code section 204.

17 Civil Penalties Under Labor Code § 226.3

18 112. Defendants had and have a policy or practice of failing to comply with Labor Code
19 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
20 with itemized wage statements that accurately reflect: reflect gross wages earned; total hours
21 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
22 corresponding number of hours worked at each hourly rate; and other such information as required
23 by Labor Code section 226, subdivision (a).

24 113. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
25 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
26 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
27 for each violation in a subsequent citation, for which the employer fails to provide the employee a
28 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

1 114. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
2 this section are in addition to any other penalty provided by law.”

3 115. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
4 and have a policy or practice of failing to furnish non-exempt employees, including, without
5 limitation, Plaintiff, itemized wage statements that accurately reflect: reflect gross wages earned;
6 total hours worked; net wages earned; all applicable hourly rates in effect during the pay period
7 and the corresponding number of hours worked at each hourly rate; and other such information as
8 required by Labor Code section 226, subdivision (a).

9 116. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
10 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
11 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
12 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
13 period for each subsequent violation.

14 Violation of Labor Code § 558

15 117. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other
16 person acting on behalf of an employer who violates, or causes to be violated . . . any provision
17 regulating hours and days of work in any of the Industrial Welfare Commission” shall be subject
18 to a civil penalty as follows:

19 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and
20 for each pay period for which the employee was underpaid in addition to an amount sufficient to
21 recover underpaid wages;

22 (2) For each subsequent violation, one hundred dollars (\$100) for each
23 underpaid employee for each pay period for which the employee was underpaid in addition to an
24 amount sufficient to recover underpaid wages;

25 (3) Wages recovered pursuant to this section shall be paid to the affected
26 employee.

27 118. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
28 each of them, violated, or caused to be violated, the Labor Code sections described herein,

1 including causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay
2 and overtime rates of pay applicable to their employment, allowances claimed as part of the
3 minimum wage, the regular payday designated by Employer, the name of the employer, including
4 any “doing business as” names used, the name, address and telephone number of the workers’
5 compensation insurance carrier, information regarding paid sick leave, and other pertinent
6 information.

7 119. As a direct and proximate result of the herein-described Labor Code violations,
8 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to
9 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty
10 dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one
11 hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent
12 violation.

13 Violation of Labor Code § 1174.5

14 120. At all times mentioned herein, Labor Code section 1174, subdivision (b) has
15 required every person employing labor in California to “[a]llow any member of the commission or
16 the employees of the Division of Labor Standards Enforcement free access to the place of business
17 or employment of the person to secure any information or make any investigation that they are
18 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
19 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
20 or papers of the person.”

21 121. At all times mentioned herein, Labor Code section 1174, subdivision (c) has
22 required every person employing labor in California to “[k]eep a record showing the names and
23 addresses of all employees employed and the ages of all minors.”

24 122. At all times mentioned herein, Labor Code section 1174, subdivision (d) has
25 required every person employing labor in California to “[k]eep, at a central location in the state or
26 at the plants or establishments at which employees are employed, payroll records showing the
27 hours worked daily by and the wages paid to, and the number of piece-rate units earned by and
28 applicable piece rate paid to, employees employed at the respective plants or establishments.

1 These records shall be kept in accordance with rules established for this purpose by the
2 commission, but in any case, shall be kept on file for not less than three years. An employer shall
3 not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a
4 piece-rate basis, piece-rate units earned.”

5 123. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who
6 willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or
7 accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to
8 allow any member of the commission or employees of the division to inspect records pursuant to
9 subdivision (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred
10 dollars (\$500).

11 124. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
12 willfully failed keep adequate or accurate time records including wage statements and similar
13 payroll documents under Labor Code section 226, documents signed to obtain or hold
14 employment under Labor Code section 432, and time records under Labor Code section 1174.

15 125. As a direct and proximate result of the herein-described Labor Code violations,
16 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
17 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of
18 five hundred dollars (\$500) per violation per Aggrieved Employee.

19 Violation of Labor Code § 1197.1

20 126. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or
21 other person acting either individually or as an officer, agent, or employee of another person, who
22 pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable
23 state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of
24 wages, liquidated damages payable to the employee, and any applicable penalties imposed
25 pursuant to Section 203 as follows:

26 A. For any initial violation that is intentionally committed, one hundred dollars
27 (\$100) for each underpaid employee for each pay period for which the
28 employee is underpaid. This amount shall be in addition to an amount

- 1 sufficient to recover underpaid wages, liquidated damages pursuant to Section
 2 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 3 B. For each subsequent violation for the same specific offense, two hundred fifty
 4 dollars (\$250) for each underpaid employee for each pay period for which the
 5 employee is underpaid regardless of whether the initial violation is intentionally
 6 committed. This amount shall be in addition to an amount sufficient to recover
 7 underpaid wages, liquidated damages pursuant to Section 1194.2, and any
 8 applicable penalties imposed pursuant to Section 203.
- 9 C. Wages, liquidated damages, and any applicable penalties imposed pursuant to
 10 Section 203, recovered pursuant to this section shall be paid to the affected
 11 employee.”

12 127. Plaintiff is informed and believes, and based thereon alleges, that Defendants
 13 caused Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of
 14 Defendants, without limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ to
 15 pay minimum wages for all hours worked, entitling Employee and other aggrieved employees to
 16 actual and liquidated damages.

17 128. As a direct and proximate result of the herein-described Labor Code violations,
 18 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
 19 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
 20 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
 21 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
 22 subsequent violation.

23 Civil Penalties Under Labor Code § 2699

24 129. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
 25 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
 26 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
 27 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
 28 action brought by an aggrieved employee on behalf of himself or herself and other current or

former employees pursuant to the procedures specified in Labor Code section 2699.3.

130. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor Code except those for which a civil penalty is specifically provided, the established civil penalty for a violation of those provisions is as follows: if, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one 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.

131. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described herein, including, without limitation, for the failure to: pay the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Defendants, the name of the employer, including any “doing business as” names used, the name, address and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employer under Labor Code section 2810.5, failing to provide Employee and other aggrieved employees with the amount of paid sick leave required to be provided pursuant to California and local laws.

132. Moreover, Plaintiff and other Aggrieved Employees within the State of California whom he seeks to represent are entitled to an award of reasonable attorneys’ fees and costs in connection with their herein-described claims for civil penalties.

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DEMAND FOR A JURY TRIAL

A. Plaintiff demands a trial by jury on all causes of action contained herein.

PRAYER

WHEREFORE, on behalf of himself and all others similarly situated and aggrieved, Plaintiff prays for judgment against Defendants as follows:

- A. An Order certifying this case as a Class Action;
- B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's counsel as class counsel;
- C. Damages for all wages earned and owed, including minimum and overtime wages under Labor Code sections 203, 510, 1194, 1197, 1199 and 2810.3;
- D. Liquidated damages pursuant to Labor Code section 1194.2 and 2810.3;
- E. Damages for unpaid premium wages from missed meal and rest periods under, among other Labor Code sections 512, 226.7 and 2810.3;
- F. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision (e) and 2810.3;
- G. Waiting time penalties under Labor Code sections 203 and 2810.3;
- H. Penalties for failure to timely permit inspection of documents under Labor Code sections 226, subdivision (b) and 2810.3;
- I. Penalties for failure to timely permit inspection of documents under Labor Code section 2810.3;
- J. Penalties to timely pay wages under Labor Code section 210;
- K. Damages under Labor Code section 2802;
- L. Preliminary and permanent injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further violations;
- M. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;
- N. Pre-judgment and post-judgment interest at the maximum rate allowed by law;

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- O. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- P. An award of reasonable attorneys’ fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- Q. For costs of suit incurred herein;
- R. For reasonable attorneys’ fees; and
- S. For such other and further relief as the Court deems just and proper.

Dated: March 31, 2022

BIBIYAN LAW GROUP, P.C.

BY: Jeffrey D. Klein
JEFFREY D. KLEIN
Attorney for Plaintiff JOSEPH D. HERNANDEZ, on
behalf of himself and all others similarly situated and
aggrieved

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

On April 1, 2022, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** to be served by electronic transmission to the below referenced electronic e-mail address as follows:

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A Professional Law Corporation
Michael J. O'Connor, Jr.
Nana J. Yee
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La Jolla, California 92037
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Nana.Yee@aalrr.com

Counsel for Defendant Bromley Foods, Inc., Amberjack Partners LLC, and Ocean View Foods, Inc.

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

Executed on April 1, 2022, at Beverly Hills, California.

/s/ Emanuel Munquia
Emanuel Munquia