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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

RONNIE L. MINNIFIELD, individually, and
on behalf of all others similarly situated,

Plaintiff,

v.

TNT BLANCHARD GENERAL
ENGINEERING, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: **CVRI 2201326**

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT**

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Breaks
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay Timely Wages
6. Failure to Pay All Wages Due to Discharged and Quitting Employees
7. Failure to Maintain Required Records
8. Failure to Furnish Accurate Itemized Statements
9. Failure to Provide Cal. Sick Leave
10. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION

11. Penalties Under the Labor Code Private Attorneys General Act

DEMAND FOR JURY TRIAL

INTRODUCTION

This is a class action brought by Ronnie L. Minnifield ("Plaintiff"), on behalf of himself and all other similarly situated individuals, against his former employer TNT Blanchard General Engineering, Inc., (referred to as "TNT" or "Defendant"), in order to hold Defendant accountable for its wage theft and other violations of California wage and hour laws. Plaintiff makes the following allegations on information and belief, except as to allegations pertaining to Plaintiff individually, which are based on his respective personal knowledge.

1. Defendant is a private, for-profit earthwork and grading general contractor which performs public works and private contracts throughout Southern California.

2. At all relevant times herein, Defendant has implemented common policies and practices designed to maximize profits at the expense of its non-exempt employees. These policies and practices have resulted in systematic violations of California's wage and hour laws.

3. Defendant maximizes profits by cutting labor costs through understaffing, denying meal and rest breaks, unlawfully rounding the time worked by its non-exempt employees, cheating its non-exempt employees out of wages and premiums, and related violations of California wage and hour laws. For instance, in order to minimize labor costs, Defendant has implemented unlawful policies with respect to meal and rest breaks. Defendant required its non-exempt employees to work through meal and rest breaks, and/or take their meal periods and breaks at times after the start of the fifth hour from the beginning of their shifts. As a result, Plaintiff and other non-exempt employees have been denied the ability to take the legally-compliant meal and rest breaks that they were and are entitled to take.

4. Defendant has implemented an unlawful rounding practice, which in conjunction with its strict attendance policy, results in the systematic underpayment of wages to Plaintiff and other non-exempt employees. Defendant also willfully turns a blind eye to off-the-clock work that Plaintiff and other non-exempt employees perform as a direct consequence of Defendant's inadequate scheduling and the imposition of an unreasonable workload.

5. Plaintiff seeks declaratory, compensatory and other statutorily available relief for himself and a Class of all current and former non-exempt employees of Defendant during the

1 applicable limitations period to compensate these workers for the wages Defendant has stolen
2 from them and to protect current and future workers from being subjected to similar unlawful
3 working conditions perpetrated by Defendant.

4 **JURISDICTION AND VENUE**

5 6. The Superior Court of the State of California has jurisdiction in this matter because
6 Plaintiff is a resident and citizen of California and Defendant is a California corporation. All
7 Class members are residents and citizens of California. No federal question is at issue because
8 Plaintiff's claims are based solely on California law.

9 7. Venue is proper in this judicial district and the County of Riverside because
10 Plaintiff, and all other persons similarly situated, performed work for Defendant in the County of
11 Riverside, Defendant's illegal payroll policies and practices, which are the subject of this action
12 were applied, at least in part, to Plaintiff, and other persons similarly situated, in the County of
13 Riverside, and Defendant maintains an office located in the City of Temecula, which is located in
14 the County of Riverside.

15 **THE PARTIES**

16 8. Plaintiff is a resident and citizen of the State of California and a former employee
17 of Defendant. Plaintiff was employed by Defendant starting on November 11, 2021 through
18 December 3, 2021 as a heavy equipment operator for Defendant. Plaintiff was assigned to work
19 on different jobs as assigned by Defendant and its contractors for private and public works
20 projects throughout Southern California.

21 9. Plaintiff, on behalf of himself and all other similarly situated individuals, brings
22 this class action to recover, among other things, wages and penalties from unpaid wages earned
23 and due, including but not limited to, Defendant's failure to provide legally compliant meal and
24 rest breaks and failure to provide proper compensation for missed and otherwise unlawful meal
25 and rest breaks, failure to pay all wages earned, including minimum and overtime wages,
26 Defendant's failure to pay all wages due to discharged or quitting non-exempt employees,
27 Defendant's failure to maintain required records and failure to provide accurate itemized wage
28 statements, and Defendant's unlawful time rounding practice.

10. Defendant is a licensed business, and at all times relevant herein was, a corporation organized and existing under the laws of the State of California.

11. The true names and capacities of DOES 1 through 50, inclusive, are unknown to Plaintiff at this time, and Plaintiff therefore sues such DOE Defendants under fictitious names. Upon information and belief, each Defendant designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and Plaintiff and Class members' injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE Defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and capacities of such DOE Defendants when ascertained.

12. As a direct and proximate result of the unlawful actions of Defendant, Plaintiff and Class members have suffered, and continue to suffer, from loss of earnings in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this Court.

CLASS ACTION ALLEGATIONS

13. Pursuant to Cal. Code of Civ. P. § 382, Plaintiff brings this action on behalf of himself and the following Class:

All California citizens who performed work for Defendant in California as non-exempt employees during the relevant statute of limitations period.

14. Plaintiff reserves the right to name additional Class representatives as may be necessary and appropriate. Plaintiff also reserves the right to modify or amend the definition of the proposed Class and/or add subclasses before the Court determines whether certification is appropriate

15. This action is appropriately suited for a class action because:

A. The proposed Class is a significant number. Plaintiff is informed and believes that the proposed Class consists of at least one hundred (100) current and former non-exempt employees, rendering joinder impractical.

B. This action involves common questions of law and fact to the proposed Class because the action focuses on the Defendant systematic course of illegal payroll practices and policies, which was applied to all non-exempt employees in uniform violation of the

1 California Labor Code, IWC Wage Orders, and the California Business and Professions Code,
2 which prohibits unfair business practices arising from such violations. Here are a few common
3 questions of law and fact that will drive resolution of this action:

4 1. Whether Defendant failed to provide non-exempt employees with
5 legally compliant meal periods and rest breaks, and whether Defendant properly paid premium
6 pay as a result of missed and non-compliant meal periods and rest breaks;

7 2. Whether Defendant failed to timely pay wages to non-exempt
8 employees in compliance with California law;

9 3. Whether Defendant's time rounding policy and practice is in
10 violation of California law;

11 4. Whether Defendant failed to pay overtime and minimum wages to
12 non-exempt employees in compliance with California law;

13 5. Whether Defendant failed to pay prevailing wages in compliance
14 with California law;

15 6. Whether Defendant failed to maintain required records and accurate
16 wage statements for non-exempt employees; and

17 7. Whether Defendant engaged in unfair and/or unlawful business
18 practices.

19 C. Plaintiff's claims are typical of the proposed Class because Defendant
20 subjected all of its non-exempt employees to the similar and overlapping violations of the
21 California Labor Code, the applicable IWC wage order, and the California Business and
22 Professions Code.

23 D. Plaintiff is able to fairly and adequately protect the interests of all members
24 of the proposed Class because it is in his best interests to prosecute the claims alleged herein to
25 obtain full compensation due to the proposed Class for all services rendered and hours worked.
26 Plaintiff has also retained counsel that is experienced in wage and hour class action litigation.

1 **FIRST CAUSE OF ACTION**

2 **Failure to Provide Required Meal Periods**

3 **[Cal. Lab. Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 5-2001, § 11**
4 **And All Other Applicable IWC Wage Orders and Applicable Sections]**
5 ***(On Behalf of Plaintiff and the Class against all Defendants)***

6 16. Plaintiff incorporates herein by specific reference, as though fully set forth, the
7 allegations in paragraphs 1 through 15 (A) – (D).

8 17. During the statute of limitations period, as part of Defendant unlawful policies and
9 practices to deprive its non-exempt employees of all wages earned and due, Defendant required,
10 permitted or otherwise suffered Plaintiff and Class members to perform work during their meal
11 periods, to completely skip their meal periods, to take late and short meal periods, and Defendant
12 has otherwise failed to provide the required meal periods to Plaintiff and Class members as
13 required under California Labor Code §§ 226.7, 512, and §§10-11 of all applicable IWC Orders.

14 18. Defendant has implemented several common policies and practices that have
15 caused Plaintiff and Class members to systematically miss and otherwise take non-compliant meal
16 periods. For example, Defendant has failed to adequately inform Plaintiff and Class members of
17 their rights to take meal periods under California law. Defendant also understaffs its job site such
18 that Plaintiff and Class members are given so much work to complete that they regularly miss or
19 take non-compliant meal periods. Part and parcel with this practice is Defendant's practice of
20 setting unrealistic deadlines for its non-exempt employees. As a result, Plaintiff and Class
21 members have so much work to complete within their scheduled shifts that they are forced to skip
22 their meal periods altogether, to take them after working longer than five (5) hours, to perform
23 work during their meal periods, or return to work after taking less than a thirty (30) minute meal
24 period.

25 19. Further, Defendant systemically deprived Plaintiff and Class members of the
26 opportunity to take second meal periods even though they regularly work shifts in excess of ten
27 hours.

28 20. Despite work conditions that systematically result in missed and non-compliant
meal periods, and in order to keep labor costs down, Defendant has implemented a policy and

1 practice of discouraging payment of meal period premium payments. In short, Defendant has
2 violated California Labor Code §§ 226.7, §§ 10 and 11 of all applicable IWC Wage Orders, and
3 the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to
4 compensate Plaintiff and Class members who were not authorized and permitted to take a
5 complete, timely, uninterrupted meal period, one additional hour of compensation at the proper
6 regular rate of pay for each workday that such a meal period was not authorized or permitted.
7 Defendant further violated California Labor Code sections 226.7, 510, 1194, 1197, and §§ 10 and
8 11 of all applicable IWC Wage Orders by failing to compensate Plaintiff and Class members for
9 all hours worked during their meal periods.

10 21. As a proximate result of the aforementioned violations, Plaintiff and Class
11 members have been damaged in an amount according to proof at trial, and seek all wages earned
12 and due, interest, penalties, expenses, and costs of suit.

13 **SECOND CAUSE OF ACTION**

14 **Failure to Provide Required Rest Breaks**

15 **[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 5-2001, § 12 And All Other**
16 **Applicable Wage Orders and Applicable Sections]**
17 ***(On Behalf of Plaintiff and the Class against all Defendants)***

18 22. Plaintiff incorporates herein by specific reference, as though fully set forth, the
19 allegations in paragraphs 1 through 21.

20 23. At all times relevant herein, as part of Defendant's illegal policies and practices to
21 deprive its non-exempt employees of all wages earned and due, Defendant failed to permit
22 Plaintiff and Class members to take rest breaks as required under California Labor Code §§ 226.7
23 and 512, and §§ 11-12 of all applicable IWC Wage Orders.

24 24. Although shifts can vary in length, Plaintiff and Class members are frequently
25 scheduled to work shifts from eight to in excess of ten hours. California law requires employers to
26 provide employees with the opportunity to take a third rest break during shifts that are 10 hours or
27 longer. However, Defendant has implemented a policy of not permitting Plaintiff and Class
28 members from taking third rest breaks, even when they work shifts in excess of 10 hours.

29 25. In addition, the same common policies and practices that deprive Plaintiff and

1 Class members from taking their meal periods, as alleged herein, similarly deprive them of their
2 ability to take their first and second rest breaks. For example, Defendant lacked an adequate
3 policy to provide Plaintiff and Class members with rest breaks, failed to properly inform them of
4 their rights to take rest breaks, and grossly understaffed the workplace such that Plaintiff and Class
5 members were regularly deprived of the ability to take rest breaks.

6 26. Defendant further violated California Labor Code § 226.7, §§ 11-12 of all
7 applicable IWC Wage Orders, and the California Unfair Competition Law, Cal. Bus. & Prof. Code
8 §§ 17200 *et. seq.*, by failing to pay Plaintiff and Class members who were not provided with a rest
9 break, in accordance with the applicable wage order, one additional hour of compensation at the
10 proper regular rate of pay for each workday that a rest break was not provided.

11 27. As a proximate result of the aforementioned violations, Plaintiff and Class
12 members have been damaged in an amount according to proof at trial, and seek all wages earned
13 and due, interest, penalties, expenses, and costs of suit.

14 **THIRD CAUSE OF ACTION**

15 **Failure to Pay Overtime Wages**

16 **[Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 5-2001, § 3**

17 **And All Other Applicable Wages Orders And Sections]**

18 ***(On Behalf of Plaintiffs and the Class against all Defendants)***

19 28. Plaintiff incorporates herein by specific reference, as though fully set forth, the
20 allegations in paragraphs 1 through 27.

21 29. Pursuant to California Labor Code §§ 510, 1194, and § 3 of all applicable wage
22 orders, Defendant is required to compensate Plaintiff and Class members for all overtime, which is
23 calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of
24 eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the
25 seventh consecutive workday, with double time for all hours worked in excess of twelve (12)
26 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh
27 consecutive day of work in any workweek.

28 30. During the statute of limitations period, Defendant failed to compensate Plaintiff
and Class members for all overtime hours worked as required under the foregoing provisions of

1 the California Labor Code and IWC Wage Orders by, among other methods, failing to pay
2 overtime at one and one-half (1 ½) or double the regular rate of pay as provided by California
3 Labor Code §§ 510, 1194 and IWC Wage Order No. 5-2001, § 3 and all other applicable wage
4 orders, requiring, permitting or suffering Plaintiff and Class members to work off-the-clock, and
5 to work through meal and rest breaks, but not compensating them for this time, illegally and
6 inaccurately recording time in which Plaintiff and Class members worked, illegally rounding the
7 time worked by Plaintiff and Class members, and other methods to be discovered.

8 31. Plaintiff and Class members were required to show up to work from ten (10) to
9 fifteen (15) minutes prior to each shift to discuss work for the day which was off the clock and
10 unpaid. Moreover, Defendant implemented a rounding practice wherein it rounds the time worked
11 by non-exempt employees because it does not record the actual times worked by Plaintiff and
12 Class members, and instead has them record rounded times based on scheduled and/or estimated
13 hours and does not pay time and half for all hours worked beyond eight (8) hours a day and forty
14 (40) hours in a work week. Plaintiff and Class members are told to write down the times of their
15 respective work shifts but are not actually paid for their time worked. Plaintiff and Class members
16 regularly work over 80 hours per pay period but are not paid any overtime.

17 32. In violation of California law, Defendant has knowingly and willfully refused to
18 perform its obligations to compensate Plaintiff and Class members for all wages earned and all
19 hours worked at the legally required rates of pay. As a proximate result, Plaintiff and Class
20 members have suffered, and continue to suffer, substantial losses related to the use and enjoyment
21 of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
22 Defendant to fully perform their obligations under state law, all to their respective damages in
23 amounts according to proof at time of trial, and within the jurisdiction of this Court.

24 33. Defendant's conduct described herein violates California Labor Code §§ 510, 1194,
25 1198 and § 3 of all applicable IWC Wage Orders. Therefore, pursuant to California Labor Code
26 §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor
27 Code and IWC Wage Orders, Plaintiff and Class members are entitled to recover the unpaid
28 balance of wages owed to them by Defendant, plus interest, penalties, attorneys' fees, expenses,

1 and costs of suit.

2 **FOURTH CAUSE OF ACTION**
3 **Failure to Pay Minimum Wages**
4 **[Cal. Lab. Code §§ 1194, 1197; IWC Wage Order No. 5-2001,**
5 **And § 4 And All Other Applicable Wages Orders And Sections]**
6 ***(On Behalf of Plaintiffs and the Class against all Defendants)***

7 34. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
8 allegations in paragraphs 1 through 33.

9 35. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of IWC Wage Order No. 5-2001
10 and all applicable wage orders and sections, payment to an employee of less than the applicable
11 minimum wage for all hours worked in a payroll period is unlawful.

12 36. During the statute of limitations period, the hourly rates for Plaintiff and Class
13 members were at or slightly above minimum wage. Based on this common practice, Defendant
14 failed to actually pay Plaintiff and Class members minimum wages for all hours worked by
15 requiring, permitting or suffering Plaintiff and Class members to work off-the-clock, such as
16 requiring them to work through meal and rest breaks, but not compensating them for this time as
17 Plaintiff and the Class members were required to write down the time of their work shifts on their
18 time cards which did not accurately reflect their actual hours worked, and failing to include this
19 time in all hours worked, unlawfully rounding their time, and other methods to be discovered.

20 37. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and §
21 4 of IWC Wage Order No. 5, and any other applicable IWC Wage Order. As a proximate result of
22 the aforementioned violations, Plaintiff and Class members have been damaged in an amount
23 according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558,
24 1194, 1197.1, and any other applicable wage orders and law, Plaintiffs and Class members are
25 entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest,
26 penalties, attorneys' fees, expenses, and costs of suit.
27
28

1 **FIFTH CAUSE OF ACTION**

2 **Failure to Pay Timely Wages**

3 **[Cal. Lab. Code §§ 204, 210]**

4 ***(On Behalf of Plaintiff and the Class against all Defendants)***

5 38. Plaintiff incorporates herein by specific reference, as though fully set forth, the
6 allegations in paragraphs 1 through 37.

7 39. California Labor Code § 204 provides that all wages earned by any person in any
8 employment between the 1st and 15th days, inclusive, of any calendar month, other than those
9 wages due upon termination of an employee, are due and payable between the 16th and 26th day
10 of the month during which the labor was performed. California Labor Code § 204 further
11 provides that all wages earned by any person in any employment between the 16th and the last
12 day, inclusive, of any calendar month, other than those wages due upon termination of an
13 employee, are due and payable between the 1st and the 10th day of the following month.

14 California Labor Code § 204 further provides that all wages eared for labor in excess of the
15 normal work period shall be paid no later than the payday for the next regular payroll period.

16 40. During the statute of limitations period, Defendant, among other things, willfully
17 failed to pay Plaintiff and Class members all wages earned and due to them, including but not
18 limited to, meal and rest break premiums, and payment for work performed off-the-clock, within
19 any time period permissible under Labor Code § 204.

20 41. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and
21 Class members are entitled to all available statutory penalties, including but not limited to, civil
22 penalties pursuant to California Labor Code §§ 200, 210, 558, 1194, 1197.1, 2699(a), and other
23 applicable provisions under the California Labor Code and IWC Wage Orders, and an award of
24 costs, expenses, and reasonable attorneys' fees.

25 **SIXTH CAUSE OF ACTION**

26 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

27 **[Cal. Lab. Code §§ 201-203]**

28 ***(On Behalf of Plaintiff and the Class against all Defendants)***

42. Plaintiff incorporates herein by specific reference, as though fully set forth, the
allegations in paragraphs 1 through 41.

1 43. Pursuant to California Labor Code §§ 201, 202, and 203, Defendant is required to
2 pay all earned and unpaid wages to an employee who is discharged. California Labor Code § 201
3 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid
4 at the time of discharge are due and payable immediately.

5 44. Furthermore, pursuant to California Labor Code § 202, Defendant is required to
6 pay all accrued wages due to an employee no later than seventy-two (72) hours after the employee
7 quits his or her employment, unless the employee provided seventy-two (72) hours previous notice
8 of his or her intention to quit, in which case the employee is entitled to his or wages at the time of
9 quitting.

10 45. California Labor Code § 203 provides that if an employer willfully fails to pay, in
11 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
12 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
13 compensation to the employee at the same rate for up to thirty (30) workdays.

14 46. During the statute of limitations period, Defendant has willfully failed to pay
15 accrued wages and other compensation to Plaintiff and Class members in accordance with
16 California Labor Code §§ 201 and 202. Because Defendant has failed and continues to fail to
17 properly compensate Plaintiff and Class members for all hours worked when due, and
18 compensation for non-compliant meal and rest breaks, Defendant has also willfully failed and
19 continues to fail to pay accrued wages and other compensation to Plaintiff and Class members in
20 accordance with California Labor Code §§ 201 and 202.

21 47. As a result, Plaintiff and Class members are entitled to all available statutory
22 penalties, including the waiting time penalties provided in California Labor Code § 203, together
23 with interest thereon, as well as other available remedies.

1 **SEVENTH CAUSE OF ACTION**
2 **Failure to Maintain Required Records**
3 **[Cal. Lab. Code §§ 226, 1174; IWC Wage Order No. 5-2001, § 6 And**
4 **All Applicable Wage Orders And Sections]**
5 ***(On Behalf of Plaintiff and the Class against all Defendants)***

6 48. Plaintiff incorporates herein by specific reference, as though fully set forth, the
7 allegations in paragraphs 1 through 47.

8 49. During the statute of limitations period, as part of Defendant's illegal payroll
9 policies and practices to deprive Plaintiff and Class members of all wages earned and due,
10 Defendant knowingly and intentionally failed to maintain records as required under California
11 Labor Code §§ 226, 1174, and §§ 6 and 7 of the applicable IWC Wage Orders, including but not
12 limited to, the following records: total daily hours worked by each non-exempt employee;
13 applicable rates of pay; all deductions; meal periods; time records showing when each non-exempt
14 employee begins and ends each workday; and accurate itemized wage statements.

15 50. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and
16 Class members have been damaged in an amount according to proof at trial, and are entitled to all
17 wages earned and due, plus interest thereon. Additionally, Plaintiff and Class members are
18 entitled to all available penalties, including but not limited to, penalties pursuant to California
19 Labor Code §§ 226(a) and (e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable
20 attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as
21 well as other available remedies.

22 **EIGHTH CAUSE OF ACTION**
23 **Failure to Furnish Accurate Itemized Wage Statements**
24 **[Cal. Lab. Code §§ 226; IWC Wage Order No. 5-2001, § 6 And**
25 **All Applicable Wage Orders And Sections]**
26 ***(On Behalf of Plaintiff and the Class against all Defendants)***

27 51. Plaintiff incorporates herein by specific reference, as though fully set forth, the
28 allegations in paragraphs 1 through 50.

 52. During the statute of limitations period, Defendant routinely failed to provide
 Plaintiff and Class members with timely, accurate, and itemized wage statements in writing
 showing each employee's gross wages earned, total hours worked, overtime hours worked and

1 paid, all deductions made, net wages earned, and all applicable hourly rates in effect during each
2 pay period and the corresponding number of hours worked at each hourly rate, in violation of
3 California Labor Code § 226 and §§ 6 and 7 of the applicable IWC Wage Orders.

4 53. Defendant's pay stubs violate Labor Code § 226 because Defendant routinely and
5 intentionally fails to provide Plaintiff and Class members with proper meal and rest breaks but
6 fails to include in their wage statements one (1) additional hour of compensation at their regular
7 rates of pay for each non-compliant meal or rest break. In addition, Defendant required Plaintiff
8 and Class members to work off-the-clock without compensation and illegally rounded the time
9 that they worked, rendering the pay stubs incorrect as to time worked, rates of pay and
10 remuneration. Defendant also failed to list the available amount of sick leave, accurately list the
11 available COVID-19 and COVID-19 supplemental sick leave available to Plaintiff and the other
12 aggrieved employees in violation of Labor Code §§246, 248.1, 248.2 and 248.6, Defendant also
13 failed to compensate Plaintiff and the Class members at the accurate regular rate of pay for
14 overtime and sick leave/PTO based upon incentive payments, and failed to accurately state all
15 applicable COVID-19 and COVID-19 supplemental sick leave hours available and amounts taken
16 on its wage statements in addition to other violations yet to be discovered. As a result of these
17 violations, Defendant pay stubs failed to accurately list the compensation owed and due to
18 Plaintiff and Class members.

19 54. Defendant knowingly and intentionally failed to provide Plaintiff and Class
20 members with timely, accurate, and itemized wage statements in accordance with California Labor
21 Code § 226(a) so as to prevent Plaintiff and Class members from being able to determine whether
22 they were being paid for, among other things, all of the hours they worked and at the proper rates
23 of pay.

24 55. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and
25 Class members have been damaged in an amount according to proof at trial, and seek all wages
26 earned and due, plus interest thereon. Additionally, Plaintiff and Class members are entitled to all
27 available penalties, including but not limited to penalties pursuant to California Labor Code §§
28 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees,

1 including but not limited to those provided in California Labor Code § 226(e), as well as other
2 available remedies.

3 **NINTH CAUSE OF ACTION**
4 **Failure To Provide And Properly Calculate Mandatory California Sick Leave**
5 **[Cal. Labor Code §246]**
6 ***(On Behalf of Plaintiff and the Class against all Defendants)***

7 56. Plaintiff incorporates herein by specific reference, as though fully set forth, the
8 allegations in paragraphs 1 through 55.

9 57. Pursuant to California Labor Code §246, any employee who works in the State of
10 California and who works more than “30 or more days within a year ... is entitled to be paid sick
11 days ...” Labor Code §246(l) provides an employer shall calculate sick pay under the following
12 methods: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the
13 regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the
14 employee actually works overtime in that workweek.” Alternatively, pursuant to Labor Code
15 §246(l)(2), states, “Paid sick time for nonexempt employees shall be calculated by dividing the
16 employee’s total wages, including overtime premium pay, by the employee’s total hours worked in
17 the full pay periods of the prior 90 days of employment.”

18 58. During the applicable statute of limitations period, Defendant fails to comply with
19 Labor Code Section §246 by not providing Plaintiff and the other Class members with sick pay
20 pursuant to the two (2) methods as set forth in Labor Code §246(l)(1) or (2). Additionally, Plaintiff
21 is informed and believes, during the applicable statute of limitations period, Defendant violates
22 California Labor Code § 246(l)(1) by failing to pay sick leave to the Class members at their regular
23 rate of pay taking into consideration non-discretionary bonus payments and other methods to be
24 discovered. Alternatively, Plaintiff is informed and believes, during the applicable statute of
25 limitations period, that Defendant violates Labor Code § 246(l)(2) by failing to divide the Class
26 members total wages by their total hours worked in the “full pay periods of the prior 90 days of
27 employment”.

TENTH CAUSE OF ACTION
Unfair and Unlawful Business Practices
[Cal. Bus. & Prof. Code § 17200 *et. seq.*]
(On Behalf of Plaintiff and the Class against all Defendants)

59. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 58.

60. Each and every one of Defendant's acts and omissions in violation of the California Labor Code and/or the applicable IWC Wage Orders as alleged herein, including but not limited to, Defendant's failure to provide required meal and rest breaks, unlawful rounding and requiring off-the-clock work, failure to pay all wages due to discharged or quitting employees or to pay timely wages, failure to furnish accurate itemized wage statements or to maintain required records, and failure to indemnify Plaintiff and Class members for necessary expenditures and/or losses incurred in discharging their duties, constitute an unfair and unlawful business practice under California Business and Professions Code § 17200 *et seq.*

61. Defendant's violations of California wage and hour laws constitute a business practice because the aforementioned acts and omissions were done repeatedly over a significant period of time, and in a systematic manner, to the detriment of Plaintiff and Class members.

62. Defendant has avoided payment of wages, the provision of meal and rest breaks, and other benefits as required by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage Orders. Further, Defendant has failed to record, report, and pay the correct sums of assessment to the state authorities under the California Labor Code and other applicable regulations.

63. As a result of these unfair and unlawful business practices, Defendant has reaped unfair and illegal profits during the Class period at the expense of Plaintiff and Class members, and members of the public. Defendant should be made to disgorge their ill-gotten gains and to restore them to Plaintiff and Class members.

64. Defendant's unfair and unlawful business practices entitle Plaintiff and Class members to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendant account for, disgorge, and restore to Plaintiff and Class members the wages and

1 other compensation unlawfully withheld from them. Plaintiff and Class members are entitled to
2 restitution of all monies to be disgorged from Defendant in an amount according to proof at the
3 time of trial.

4 **ELEVENTH CAUSE OF ACTION**
5 **Representative Action for Civil Penalties**
6 **[Cal. Lab. Code §§ 2698- 2699.5]**

7 ***(On Behalf of Plaintiff and Other Aggrieved Employees against all Defendants)***

8 65. Plaintiff incorporates herein by specific reference as though fully set forth the
9 allegations in paragraphs 1 through 64, with exception of the allegations in Paragraphs 13 through
10 15 (A) – (D).

11 66. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code
12 § 2699(c), and is a proper representative to bring a civil action on behalf of himself, and other non-
13 exempt employees of Defendant who are California citizens, pursuant to the procedures specified
14 in California Labor Code § 2699.3, because Plaintiff was employed by Defendant and the alleged
15 violations of the California Labor Code were committed against Plaintiff.

16 67. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor
17 Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties, including but not limited to
18 penalties under California Labor Code §§ 2699, 210, 225.5, 226.3, 354, 558, 1174.5, 1197.1,
19 1775, 1199, and all applicable IWC wage order penalties, from Defendant in a representative
20 action for the violations set forth above, including but not limited to violations of California Labor
21 Code §§ 201, 202, 203, 226, 226.7, 246, 248.1, 248.2, 248.3, 248.6, 351, 510, 512, 1174, 1194,
22 1197, 1198 and 1774. Plaintiff is also entitled to an award of reasonable attorneys’ fees and costs
23 pursuant to California Labor Code § 2699(g)(1).

24 68. Pursuant to California Labor Code §§ 2699.3, on January 21, 2022, Plaintiff gave
25 written notice by certified mail to the California Labor and Workforce Development Agency
26 (“LWDA”) and Defendant of the specific provisions of the California Labor Code and IWC Wage
27 Orders alleged to have been violated, including the facts and theories to support the alleged
28 violations. Within sixty-five (65) calendar of the postmark date of Plaintiff’s notice letter, the
LWDA did not provide notice to Plaintiff that it intends to investigate the alleged violations.

1 Therefore, Plaintiff has complied with all of the requirements set forth in California Labor Code §
2 2699.3 to commence a representative action under PAGA.

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiff, individually and on behalf of all other persons similarly
5 situated, respectfully prays for relief against Defendant and DOES 1 through 50, inclusive, and
6 each of them, as follows:

- 7 1. For compensatory damages in an amount to be ascertained at trial;
- 8 2. For restitution of all monies due to Plaintiff and Class members, as well as
9 disgorged profits from the unfair and unlawful business practices of Defendant;
- 10 3. For meal and rest break compensation pursuant to California Labor Code § 226.7
11 and IWC Wage Order No. 5-2001 and all other applicable IWC Wage Orders and pertinent
12 sections;
- 13 4. For liquidated damages pursuant to California Labor Code § 1194.2;
- 14 5. For preliminary and permanent injunctive relief enjoining Defendant from violating
15 the relevant provisions of the California Labor Code and the IWC Wager Orders, and from
16 engaging in the unlawful business practices complained of herein;
- 17 6. For waiting time penalties pursuant to California Labor Code § 203;
- 18 7. For statutory penalties according to proof, including but not limited to all penalties
19 authorized by the California Labor Code §§ 210, 225.5, 226(e), 226.3, 354, 1174.5, 1775, and
20 1197.1;
- 21 8. An award of actual, statutory, and/or punitive damages to Plaintiff and the Class
22 pursuant to California Civil Code §§ 1785.31 and 1786.50, in an amount subject to proof at trial;
- 23 9. For interest on the unpaid wages at 10 percent per annum pursuant to California
24 Labor Code §§ 218.6, 1194, California Civil Code §§ 3287, 3288, and/or any other applicable
25 provision providing for pre-judgment interest;
- 26 10. For reasonable attorneys' fees and costs pursuant to California Labor Code §§
27 218.5, 226, 1194, California Code of Civil Procedure § 1021.5, California Civil Code §
28

1 1786.50(a)(2), California Civil Code § 1785.31(a), and/or any other applicable provisions
2 providing for attorneys' fees and costs;

3 11. For declaratory relief;

4 12. For an order requiring and certifying the First through Tenth Causes of Action as a
5 class action;

6 13. For an order appointing Plaintiff as Class representative and Plaintiff's counsel as
7 Class counsel; and

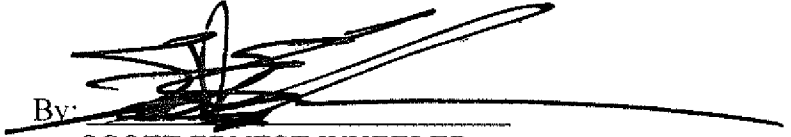
8 14. For such further relief that the Court may deem just and proper.

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff, on behalf of himself and all others similarly situated, hereby demands a jury trial
11 with respect to all issues triable of right by jury.

12
13 DATED: March 2, 2022

THE LAW OFFICE OF SCOTT E. WHEELER

14
15 By: 

SCOTT ERNEST WHEELER

16 *Attorney for Plaintiff and the Putative Class*
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