

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Michelle Williams Court

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

RICARDO TORRES,

Plaintiff,

vs.

LANCASTER HOSPITAL
CORPORATION dba PALMDALE
REGIONAL MEDICAL CENTER; and
DOES 1 to 25, inclusive,

Defendants.

) CASE NO.: 22STCV18405

)

) **COMPLAINT FOR DAMAGES FOR:**

)

) **1) FAILURE TO COMPENSATE FOR
ALL HOURS WORKED;**

)

) **2) FAILURE TO PAY MINIMUM
WAGES;**

)

) **3) FAILURE TO PAY OVERTIME;**

)

) **4) FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS;**

)

) **5) FAILURE TO PAY WAGES OWED
EVERY PAY PERIOD;**

)

) **6) FAILURE TO GIVE REST BREAKS;**

)

) **7) FAILURE TO GIVE MEAL BREAKS;**

)

) **8) FAILURE TO PROVIDE
PERSONNEL RECORDS;**

)

) **9) PRIVATE ATTORNEYS GENERAL
ACT ("PAGA");**

)

) **10) FAILURE TO PAY WAGES WHEN
EMPLOYMENT ENDS**

)

) **11) VIOLATION OF CALIFORNIA
BUSINESS AND PROFESSIONS
CODE SECTION 17200.**

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) **DEMAND FOR JURY TRIAL**

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COMES NOW Plaintiff, RICARDO TORRES (hereinafter “Plaintiff”), and alleges:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants LANCASTER HOSPITAL CORPORATION dba PALMDALE REGIONAL MEDICAL CENTER and DOES 1 to 25, inclusive, (collectively “Defendant(s)” or “LANCASTER”) do business in the County of Los Angeles, and because Defendants’ obligations and liabilities arise therein. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant LANCASTER HOSPITAL CORPORATION dba PALMDALE REGIONAL MEDICAL CENTER is organized and operating in the County of Los Angeles, State of California, and which employed Plaintiff.

4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

5. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and

1 under the authority of their agency, employment, or representative capacity, with the consent
2 of his/her codefendants.

3 **GENERAL ALLEGATIONS**

4 6. Plaintiff worked for LANCASTER as a Nurse at Palmdale Regional Medical Center.

5 7. Plaintiff was classified as an hourly, non-exempt employees.

6 8. Plaintiff's employment with LANCASTER ended on or around October 2021 after
7 about two years of employment.

8 9. It is Plaintiff's position that LANCASTER has committed numerous labor code
9 violations against Plaintiff and other similarly situated aggrieved employees.

10 10. LANCASTER did not provide Plaintiff and other aggrieved employees with
11 compensation for all hours worked and did not compensate Plaintiff and others with the
12 minimum wages to which they were entitled for work performed "off the clock", pursuant to
13 California Labor Code sections 1194, 1197 and 1197.1. This was so because LANCASTER
14 had a policy and practice of rounding down and time shaving, which resulted in Plaintiff and
15 others not being paid for all hours worked. Furthermore, and to the extent that Plaintiff and
16 others had to work through their meal breaks while "off the clock" or had their meal periods
17 interrupted, that would constitute a minimum wage violation under California law since they
18 were not paid for all hours worked.

19 11. Due to the "off the clock" work as alleged above and as a matter of policy,
20 LANCASTER violated Labor Code §510 because it failed to pay Plaintiff and other similarly
21 situated aggrieved employees overtime, even though they worked more than 8 hours per day,
22 12 hours per day and/or 40 hours per week throughout their employment. Plaintiff and others'
23 actual work hours entitled them to overtime compensation (both daily and weekly), especially
24 due to the "off the clock" as described above, however, they were not paid for their overtime
25 hours worked. In fact, it seems like it was company policy not to accurately and properly pay
26 for all overtime hours worked. It is Plaintiff's position that he was not receiving 1.5 times his
27 regular rate of pay for the hours he would work above 8 hours per day and was not getting
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1 double time for the hours he was working over the 12-hour mark. Moreover, LANCASTER
2 did not include incentive pay and bonus pay (including split shift differentials) in calculating
3 Plaintiff and others' correct regular rate of pay for use in calculating the true overtime rate of
4 pay.

5 12. LANCASTER also violated Labor Code § 226.7 and the applicable Industrial Welfare
6 Commission Wage Order no. 5 because it failed to provide Plaintiff and others with 10-minute
7 rest periods for every four hours of work, or majority portion thereof, throughout their
8 employment. LANCASTER did not completely relieve Plaintiff and others of all duty during
9 said rest periods. LANCASTER did not pay to Plaintiff and others one additional hour of pay
10 at Plaintiff's regular rate of compensation for each workday that one or more statutory rest
11 periods was not provided. It was not company policy and not part of the company culture for
12 employees such as Plaintiff and others to take rest breaks, especially due to the fast-paced
13 nature of the job. There was simply no time and no occasion to take rest breaks wherein they
14 are relieved of all work duties. As such, the culture and work environment at LANCASTER
15 did not lend itself to the employees receiving statutory breaks wherein they were relieved of all
16 work duties. It was the normal practice and custom of LANCASTER not to authorize, permit,
17 and enforce statutory rest periods. As such, the work environment and culture at LANCASTER
18 was not conducive to receiving statutory rest breaks under California law.

19 13. LANCASTER violated Labor Code §§ 512 and 226.7 along with the applicable
20 Industrial Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and
21 others the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work
22 throughout their employment. LANCASTER did not completely relieve Plaintiff and others of
23 all duty during said meal periods. LANCASTER did not pay to Plaintiff and others one
24 additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or
25 more statutory meal periods was not provided. Furthermore, as alluded to above, and due to the
26 nature of Plaintiff's work as a nurse and the enormous amount of work to be performed, it was
27 common practice and standard for Plaintiff and others to not receive statutory meal breaks,
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1 especially before the 5th hour worked. There was no time and no occasion for Plaintiff to be
2 able to take an uninterrupted, timely, 30-minute meal period and management was
3 unequivocally aware of this. Moreover, Plaintiff and others also did not receive a second,
4 timely, uninterrupted meal period if they worked shifts of 10 hours or more. Furthermore, it is
5 also true that even if Plaintiff was able to receive a meal break, he did not always receive the
6 meal breaks before the 5th hour worked. It was the normal practice and custom of
7 LANCASTER not to authorize, permit, and enforce statutory meal periods. As such, the work
8 environment and culture at LANCASTER was not conducive to receiving statutory meal
9 breaks under California law.

10 14. Furthermore, during the relevant time period, and due to the above allegations,
11 LANCASTER failed to pay Plaintiff and others all wages due to them within any time period
12 specified by California Labor Code section 204.

13 15. LANCASTER was also in violation of California Labor Code section 226(a), by failing
14 to include pertinent information on the wage statements, including but not limited to, all hours
15 worked (minimum wages and overtime due to the “off the clock” work), gross wages earned,
16 net wages earned, total pay, the correct legal name and address of the employing entity, the
17 correct start and end of the pay period, all applicable hourly rates, itemized deductions, the
18 correct start and end of the pay period, identifying information of the employees, premium pay
19 for the missed meal and rest breaks, and business expense reimbursement, among others. As
20 such, LANCASTER did not provide Plaintiff and other similarly situated aggrieved employees
21 with complete, accurate itemized wage statements.

22 16. During the relevant time period, LANCASTER also failed to keep accurate and
23 complete payroll records showing the actual hours worked per day and the wages paid to
24 Plaintiff and other aggrieved employees pursuant to California Labor Code sections 1174(d).

25 17. LANCASTER also violated Labor Code § 203 because it willfully failed to pay
26 Plaintiff and other similarly situated aggrieved employees earned and due wages upon
27 separation of employment, either immediately upon involuntary termination, or within 72
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1 hours of resignation. After Plaintiff's employment with LANCASTER ended, LANCASTER
2 failed and refused to pay all wages earned and due immediately upon separation. These earned
3 but unpaid wages include compensation for all hours worked/minimum wages, overtime
4 compensation, and penalties/premium pay for missed meal and rest breaks, among others.

5 18. Moreover, there was no adequate rest break/rest facility area for employees pursuant to
6 Wage Order no. 5-2001, Section 13(b).

7 **FIRST CAUSE OF ACTION**

8 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

9 **(California Industrial Welfare Commission Order 5-2001, California Code of**
10 **Regulations Title 8 Section 11050, and California Labor Code Section 1198)**

11 **(Plaintiff against all named defendants and all DOE defendants)**

12 19. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 18, inclusive, of this Complaint as though fully set forth herein.

14 20. At all times relevant herein, Defendants were required to compensate its employees for
15 all hours worked upon reporting for work at the appointed time stated by the employer
16 pursuant to Industrial Welfare Commission Order 5-2001, California Code of Regulations,
17 Title 8, Section 11050.

18 21. For the three (3) years preceding filing of this action, Defendants failed to compensate
19 Plaintiff for all hours worked.

20 22. Under the aforementioned wage order and regulations, Plaintiff is to recover
21 compensation for all hours worked but not paid by Defendants for the three (3) years
22 preceding the filing of this Complaint.

23 23. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
24 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
25 this Court.

26 24. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
27 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
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entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus reasonable attorney's fees and costs of suit.

25. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs which will equal an amount known to Plaintiff once he has obtained all of his payroll records from Defendants.

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(California Labor Code Sections 1194, 1194.2, 1197)

(Plaintiff against all named defendants and all DOE defendants)

26. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 25, inclusive, of this Complaint as though fully set forth herein.

27. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the minimum wage rate for all hours worked as required by the applicable Industrial Welfare Commission (hereinafter "IWC") Wage Order No. 5-2001, codified at California Code of Regulations, Title 8, Section 11050, subdivision 4.

28. Pursuant to IWC Wage Order no. 5-2001, subdivision 2(K), at all relevant times, "hours worked" included "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so..."

29. During his employment, Plaintiff was regularly required as a matter of uniform policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff was paid less than the minimum wage rate by Defendants for hours worked in violation of California Labor Code Section 1197 and the applicable California Industrial Wage Commission wage order(s).

30. Plaintiff was, at all relevant times, under the control of Defendants and suffered or

1 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
2 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
3 to believe that their acts or omissions were not contrary to California law.

4 31. For all hours worked by Plaintiff for which he was paid less than the minimum wage
5 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
6 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
7 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
8 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

9 32. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
10 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
11 trial.

12 **THIRD CAUSE OF ACTION**

13 **FAILURE TO PAY OVERTIME**

14 **(California Industrial Welfare Commission Order 5-2001, California Code of**
15 **Regulations Title 8 Section 11050)**

16 **(Plaintiff against all named defendants and all DOE defendants)**

17 33. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 32, inclusive, of this Complaint as though fully set forth herein.

19 34. Pursuant to Industrial Welfare Commission Order No. 5-2001, California Code of
20 Regulations, Title 8, Section 11050, for the period of Plaintiff's employment, Defendants were
21 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
22 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
23 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
24 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
25 week.
26

27 35. Plaintiff was a non-exempt employee entitled to the protections of the California
28 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations, Title 8,

1 Section 11050.

2 36. Plaintiff worked more than eight (8) hours in a single workday, more than twelve (12)
3 hours in a single day, or forty (40) hours in a single workweek on numerous occasions.

4 37. Plaintiff was entitled to the above overtime premiums.

5 38. Defendants did not pay Plaintiff premium wages of at least one and one-half times
6 Plaintiff's regular rate of pay for hours worked past eight (8) in a day or two times Plaintiff's
7 regular rate of pay for hours worked past twelve (12) in a day.

8 39. Defendants did not pay Plaintiff premium wages of at least one and one-half times
9 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

10 40. Plaintiff worked at least one pay period in which he was not properly paid overtime
11 within the three (3) years prior to the initiation of this lawsuit.

12 41. Defendants know or should know the actual dates of overtime worked, the amount of
13 overtime worked, and the amount of unpaid overtime due.

14 42. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
15 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
16 Court.

17 43. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
18 Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the
19 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
20 reasonable attorney's fees and costs of suit.

21 44. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
22 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
23 trial.

24 **FOURTH CAUSE OF ACTION**

25 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

26 **(California Labor Code Section 226)**

27 **(Plaintiff against all named and all DOE defendants)**

1 45. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 44, inclusive, of this Complaint as though fully set forth herein.

3 46. Pursuant to California Labor Code Section 226, every employer must furnish each
4 employee an itemized statement of wages and deductions at the time of payment of wages.

5 47. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
6 accurately reflected all information required by Labor Code Section 226, including but not
7 limited to, gross wages earned, including overtime, net wages earned, total hours worked by
8 the employee, all deductions, and premium pay for missed meal breaks and rest breaks.
9 Therefore, Defendants failed to maintain and provide accurate itemized wage statements to
10 Plaintiff in accordance with California Labor Code Section 226(a).

11 48. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
12 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
13 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
14 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
15 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
16 the 1-year period immediately preceding the date this lawsuit was filed.

17 49. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
18 sustained damages, including loss of earnings, in an amount to be established at trial. As a
19 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
20 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
21 and attorney's fees pursuant to statute.

22 50. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
23 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
24 trial.

25 **FIFTH CAUSE OF ACTION**

26 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

27 **(California Labor Code Section 204)**

(Plaintiff against all named defendants and all DOE defendants)

51. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 50, inclusive, of this Complaint as though fully set forth herein.

52. California Labor Code Section 204 establishes the fundamental right of all employees in the State of California to be paid wages in a timely fashion for their work.

53. At all times relevant during the liability period, Defendants failed to pay Plaintiff the full amount of all owed wages when due as required by California Labor Code Section 204.

54. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the liability period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked, including overtime hours and the minimum wage along with premiums for missed meal breaks and rest breaks.

55. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount, subject to proof, to the extent he was not paid all wages each pay period. The precise amount of unpaid wages is not presently known to Plaintiff but can be determined directly from Defendants' records or indirectly based on information from Defendants' records.

56. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

SIXTH CAUSE OF ACTION

FAILURE TO GIVE REST BREAKS

(Plaintiff against all named defendants and all DOE defendants)

57. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 56, inclusive, of this Complaint as though fully set forth herein.

58. Plaintiff brings this cause of action under the following laws, for the following reasons:

- a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which

1 provides that every employer shall authorize and permit all employees to take rest
2 periods, which insofar as practicable shall be in the middle of each work period.

3 The authorized rest period time shall be based on the total hours worked daily at the
4 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;

5 b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which
6 provides that if an employer fails to provide an employee a rest period in
7 accordance with the applicable provisions of this order, the employer shall pay the
8 employee one (1) hour of pay at employee's regular rate of compensation for each
9 workday that the rest period is not provided;

10 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which
11 penalizes the employer \$50.00 for each initial violation, per employee, of any
12 provision of the Wage Order, and \$100.00 for each additional violation thereafter
13 per employee; and
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15 d. California Labor Code section 226.7, which states that (a) no employer shall require
16 any employee to work during any rest period mandated by an applicable order of
17 the Industrial Welfare Commission, and (b) if an employer fails to provide an
18 employee a rest period in accordance with an applicable order of the Industrial
19 Welfare Commission, the employer shall pay the employee one (1) additional hour
20 of pay at employee's regular rate of compensation for each work day that the rest
21 period is not provided.
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23 59. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute
24 rest break after every four (4) hours of work or major fraction thereof, as required by California
25 law.
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27 60. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
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1 regulations, and wage orders alleged in this cause of action along with any allowable interest,
2 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
3 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

4 61. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
5 fees as well as interest under Labor Code section 218.6.

6 62. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
7 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
8 trial.

10 **SEVENTH CAUSE OF ACTION**

11 **FAILURE TO GIVE MEAL BREAKS**

12 **(Plaintiff against all named defendants and all DOE defendants)**

13 63. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 62, inclusive, of this Complaint as though fully set forth herein.

15 64. Plaintiff brings this cause of action under the following laws, for the following
16 reasons:
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- 18 a. California Labor Code section 512(a), which requires that employees be given a 30-
19 minute uninterrupted meal break after five (5) hours of work, and a second
20 uninterrupted meal break after ten (10) hours of work;
- 21 b. California Labor Code section 226.7, which states that (a) no employer shall require
22 any employee to work during any meal period mandated by an applicable order of
23 the Industrial Welfare Commission, and (b) if any employer fails to provide an
24 employee a meal period in accordance with an applicable order of the Industrial
25 Welfare Commission, the employer shall pay the employee one (1) additional hour
26 of pay at the employee's regular rate of compensation for each workday that the
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meal period is not provided;

- c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified under Title 8 of the California Code of Regulations Section 11050, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11050, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as codified under California Code of Regulations Section 11050, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5) as enforceable law.

65. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to take a second relieved meal break after ten (10) hours of work, as required by California law. California Labor Code section 512(a) and California Industrial Welfare Commission Order No. 5, as codified under California Code of Regulations Sections 11050 et. seq. requires that employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of all work

1 duty. California Labor Code section 226.7 provides that employers may not require their
2 employees to work through their meal periods. California Labor Code section 226.7 and
3 California Code of Regulations section 11050 requires that if the employer fails to provide the
4 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
5 of pay for each work day that the meal period is not given.

6 66. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
7 regulations, and wage orders alleged in this cause of action along with any allowable interest,
8 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
9 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

10 67. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
11 fees as well as interest under Labor Code section 218.6.

12 68. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
13 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
14 trial.

15 **EIGHTH CAUSE OF ACTION**

16 **FAILURE TO PROVIDE PERSONNEL RECORDS**

17 **(Plaintiff against All Named Defendants and all DOE Defendants)**

18 69. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 68, inclusive, of this Complaint as though fully set forth herein.

20 70. Labor Code section 1198.5 dictates "every current and former employee, or his
21 or her representative, has the right to inspect and receive a copy of the personnel records that
22 the employer maintains relating to the employee's performance or to any grievance concerning
23 the employee."

24 71. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the
25 employer shall make the contents of those personnel records available for inspection to the
26 current or former employee, or his or her representative, at reasonable intervals and at
27 reasonable times..." On information and belief, Defendants intentionally failed to provide
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1 Plaintiff with personnel records when requested by Plaintiff via letter on January 19, 2022, as
2 required by law. Plaintiff requested his personnel records in accordance with California Labor
3 Code section 1198.5(k) on January 19, 2022, via U.S. certified mail, return receipt requested.

4 72. Defendants failed to provide Plaintiff with an opportunity to inspect or copy his
5 records within 30 days. As a direct result of Defendants' violations alleged herein, Plaintiff has
6 suffered and continues to suffer substantial losses related to Defendants' failure to provide
7 personnel records.

8 73. Plaintiff seeks all available remedies for Defendants' violations including, but
9 not limited penalties, and costs to the extent permitted by law and according to proof at trial.
10 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
11 amount of \$750.00, along with costs and attorney's fees.

12 **NINTH CAUSE OF ACTION**

13 **PRIVATE ATTORNEYS GENERAL ACT**

14 **Individual and Representative Claim for PAGA penalties under California Labor Code**
15 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5,**
16 **1194, 1197, 1198)**

17 **(Plaintiff Against all Named Defendants and all DOE Defendants)**

18 74. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 73, inclusive, of this Complaint as though fully set forth herein.

20 75. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
21 Defendants of the specific violations of the California Labor Code that Defendants
22 and DOE defendants have violated and continue to violate.

23 76. Pursuant to California Labor code section 2699.3, no response was received from the
24 LWDA within 65 days of the postmark date of the above-alleged letter.

25 77. Plaintiff therefore has exhausted all administrative remedies required of him under
26 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
27 cause of action and pursue penalties in a representative action for Defendants' violations of the
28 Labor Code.

1 78. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
2 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
3 departments, divisions, commissions, boards, agencies, or employees for violation of the code
4 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
5 on behalf of himself or herself and other current or former employees pursuant to the
6 procedures specified in California Labor Code section 2699.3.

7 79. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
8 violator and had one or more of the alleged violations committed against him, and therefore is
9 properly suited to represent the interests of other current and former hourly, non-exempt
10 employees who worked for LANCASTER during the relevant PAGA Period.

11 80. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks
12 penalties under California Labor Code sections 2698 and 2699 because of Defendants’
13 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

14 81. Plaintiff therefore has exhausted all administrative remedies required of him under
15 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
16 cause of action and pursue penalties in a representative action for Defendants’ violations of the
17 Labor Code.

18 82. California Labor Code section 2699 et seq. imposes penalties upon culpable
19 Defendants for violating the Labor Code.

20 83. California Labor Code section 558 establishes a civil penalty as follows: Any
21 employer or other person action on behalf of an employer who violates, or causes to be
22 violated, a section of this chapter or any provision regulating hours and days of work in any
23 order of the Industrial Welfare Commission (including the “Hours and Days of Work” section
24 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
25 dollars (\$50) for each underpaid employee for each pay period for which the employee was
26 underpaid... (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
27 employee for each pay period for which the employee was underpaid...
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1 84. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
2 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
3 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
4 employees in this specific cause of action under the Private Attorneys General Act.

5
6 85. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
7 the following:

8 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
9 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, via 2698 and 2699 and any
10 other Labor Codes and Industrial Welfare Commission Wage Order Provisions (no. 5)
11 violated based on the facts alleged in this Complaint.

12 86. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
13 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
14 employees as alleged herein in an amount to be shown according to proof at trial and within the
15 jurisdictional limits of this Court.

16
17 **TENTH CAUSE OF ACTION**

18 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

19 **(California Labor Code Sections 201, 202, 203)**

20 **(Plaintiff against all named defendants and all DOE defendants)**

21 87. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 86, inclusive, of this Complaint as though fully set forth herein.

23 88. Pursuant to California Labor Code Section 201(a), an employer who discharges an
24 employee must immediately pay for all compensation due and owing.

25 89. Pursuant to California Labor Code Section 202, when an employee resigns, the
26 employer must pay all compensation due and owing within 72 hours of resignation, or on the
27 employee's last day of work, if the employee gives more than 72 hours notice of resignation.
28

1 90. Pursuant to California Labor Code Section 203, if an employer willfully fails to
2 pay, without abatement or reduction, any wages of an employee whose employment ends, the
3 wages of the employee shall continue as a penalty from the due date at the same rate until paid
4 or until an action is commenced; however, the wages shall not continue for more than 30 days
5 for failure to pay an employee owed wages.

6 91. After Plaintiff's employment with Defendants ended, Defendants willfully
7 refused and continue to refuse to pay him unpaid wages as required by Labor Code Section
8 203.

9 92. Under this cause of action, Plaintiff prays for penalties due under the statutes
10 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
11 proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 1 year
12 immediately preceding the filing of this lawsuit.

13 93. Under this cause of action, Plaintiff also prays for attorney's fees and costs
14 under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages
15 as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

16 94. Under this cause of action, Plaintiff prays for penalties due under the statutes
17 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
18 proof at trial.

19 **ELVENTH CAUSE OF ACTION**

20 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

21 **(California Business and Professions Code Section 17200)**

22 **(Plaintiff against All Named Defendants and all DOE defendants)**

23 95. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 94, inclusive, of this Complaint as though fully set forth herein.

25 96. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
26 constitutes unfair and unlawful business practices under California Business and Professions
27 Code Section 17200, et seq.
28

1 97. Defendant's violations of California labor laws and the Labor Code constitutes a
2 business practice because it was done repeatedly over a significant period of time in a
3 systematic manner that was detrimental to Plaintiff and others.

4 98. For the four years preceding the filing of this action, Plaintiff has suffered damages
5 and request damages and/or restitution of all monies and profits to be disgorged from
6 Defendant GEN WESTGATE in an amount according to proof at time of trial, but in excess of
7 the jurisdiction of this Court.

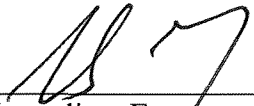
8 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
9 follows:

- 10 1. For compensatory damages including lost past and future wages, overtime,
11 commissions, and all other sums of money, together with interest on said amounts, and
12 any other economic injury to Plaintiff, according to proof;
- 13 2. For special and consequential damages to the extent allowed by law;
- 14 3. For restitution and disgorgement for all unfair business practices by corporate
15 Defendants against Plaintiff in an amount according to proof;
- 16 4. For an order enjoining corporate Defendants from further unfair and unlawful business
17 practices in violation of Business and Professions Code section 17200, et seq.;
- 18 5. For damages and penalties against Defendants under Labor Code section
19 226 for Plaintiff in an amount subject to proof at trial;
- 20 6. For damages and penalties pursuant to Labor Code section 203 against Defendants in
21 an amount subject to proof at trial;
- 22 7. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
23 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
- 24 8. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half
25 (3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.
- 26 9. For all remedies available to Plaintiff under the applicable Wage Order and the
27 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
28 liquidated damages, damages, penalties, and waiting time penalties according to proof

- 1 to the extent permitted by law;
- 2 10. For the imposition of civil penalties and/or statutory penalties;
- 3 11. For maximum civil penalties available under the Labor Code and applicable Wage
- 4 Order against Defendants as described more particularly in the Complaint and
- 5 representative PAGA claims;
- 6 12. Reasonable attorney's fees where available by law, including but not limited to,
- 7 pursuant to the California Labor Code, PAGA, and/or other applicable laws; and
- 8 13. Costs and expenses of suit incurred herein;
- 9 14. For all interest as allowed by law;
- 10 15. For such other and further relief as the Court deems just and proper.

11 **DATED:** June 5, 2022

MESSRELIAN LAW INC.

12
13 By 
14 Harout Messrelian, Esq.
15 Attorneys for Plaintiff Ricardo Torres

16
17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

19
20 **DATED:** June 5, 2022

MESSRELIAN LAW INC.

21
22 By 
23 Harout Messrelian, Esq.
24 Attorneys for Plaintiff Ricardo Torres