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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

RAUL VAZQUEZ RAMIREZ, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

PRIMECO, a California corporation; and
DOES 1 through 100,

Defendants.

CASE NO.: 37-2021-00052359-CU-OE-CTL

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

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 1194, 1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (5) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203); and**
- (6) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiffs Raul Vazquez Ramirez and Rafael Olmos Gonzalez (“Plaintiffs”), on behalf of
2 themselves and all others similarly situated, hereby bring this First Amended Class and
3 Representative Action Complaint (“Complaint”) against Defendants PrimeCo, a California
4 corporation, and DOES 1 to 100, inclusive (collectively “Defendants”), and on information and
5 belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring
8 this Complaint for recovery of unpaid wages and penalties under California Business and
9 Professions Code § 17200 *et. seq.*, Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 558,
10 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, and Industrial Welfare Commission Wage Order
11 16 (“Wage Order 16”), in addition to seeking injunctive relief, declaratory relief, and restitution.
12 This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has
13 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
14 controversy exceeds this Court’s jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in San Diego County. Defendants own, maintain offices, transact business, have an agent
19 or agents within San Diego County, and/or otherwise are found within San Diego County, and
20 Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiffs are, and at all times relevant herein were, individuals over the age of
23 eighteen (18). At all relevant times herein, Plaintiffs were, and currently are, California residents.
24 Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiffs
25 were employed by Defendants as non-exempt employees. Plaintiffs were, and are, victims of
26 Defendants’ policies and/or practices complained of herein, lost money and/or property, and have
27 been deprived of the rights guaranteed by California Business and Professions Code § 17200 *et.*
28 *seq.*, Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,

2698 *et seq.*, and Wage Order 16, which sets employment standards for the construction industry.

4. Plaintiffs are informed and believe, and based thereon allege, that during the applicable statute of limitations for each cause of action pled herein and continuing to the present, Defendants did (and do) business by providing reconstruction services and painting services to homeowners and property managers, and employed Plaintiffs and other, similarly-situated non-exempt employees within San Diego County, and the State of California and, therefore, were (and are) doing business in San Diego County and the State of California.

5. Plaintiffs do not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiffs are informed, and believe, and based thereon allege, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiffs and the Classes (as defined in Paragraph 16) to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiffs are informed, and believe, and thereon allege, that at all times mentioned herein, Defendants were and are the employers of Plaintiffs and all members of the Classes.

7. At all relevant times, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiffs allege that all Defendants were joint employers for all purposes of Plaintiffs and all
2 members of the Classes.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Defendants provide construction and painting services to property managers and
5 homeowners associations located in Southern California. Plaintiff Ramirez worked for
6 Defendants as a non-exempt “Painter” from approximately October 19, 2019 to approximately
7 June 17, 2020. Throughout Plaintiff Ramirez’s employment, Plaintiff Ramirez was regularly
8 scheduled to work a shift that began at 7:00 a.m. and ended at 4:00 p.m. or later. Plaintiff Olmos
9 Gonzalez worked for Defendants as a non-exempt “carpenter” from 2019 until approximately
10 November 11, 2021.

11 10. During Plaintiffs’ employment with Defendants, Defendants’ timekeeping
12 policies and/or practices resulted in Plaintiffs and other non-exempt employees not being
13 compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise.
14 Specifically, throughout Plaintiffs’ employment, Defendants did not maintain any record of the
15 hours worked by Plaintiffs or other non-exempt employees. Instead, Defendants only required
16 Plaintiffs and other non-exempt employees to sign in each morning. Defendants then proceeded
17 to pay Plaintiffs and other non-exempt employees for eight hours of scheduled work, regardless
18 of the hours Plaintiffs and other non-exempt employees actually worked. As Plaintiffs and other
19 non-exempt employees regularly worked in excess of eight hours in a workday, Plaintiffs and
20 other non-exempt employees were not compensated for all required minimum and overtime
21 wages.

22 11. Additionally, throughout Plaintiffs’ employment with Defendants, Plaintiffs
23 regularly worked in excess of 8 hours per day and/or 40 hours per week. However, as a result of
24 only being compensated for a maximum of 8 hours per day regardless of the amount of hours
25 Plaintiffs actually worked, Plaintiffs were not compensated at one and one-half times their regular
26 rate of pay for hours worked in excess of 8 hours per day and/or 40 hours per week and were
27 therefore deprived of all overtime compensation. Further, as a result of Defendants’ failure to
28 record the hours Plaintiffs worked, Plaintiffs did not receive all overtime compensation to which

1 they were entitled.

2 12. Defendants failed to provide Plaintiffs and other non-exempt employees with all
3 legally compliant meal periods due to Defendants' meal period policies/practices, which have
4 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
5 and missed meal periods. Specifically, Defendants' supervisors would frequently inform
6 Plaintiffs and other non-exempt employees that their meal period would only be 15-20 minutes
7 due to work demands. Additionally, Defendants failed to provide Plaintiffs and other non-exempt
8 employees with second meal periods on shifts over 10.0 hours. Defendants did not require
9 Plaintiffs and other non-exempt employees to record their meal periods. Instead, upon
10 information and belief, Defendants automatically deducted 30 minutes from the total hours
11 worked for each shift worked regardless of whether the employee actually took a full 30-minute
12 compliant meal period. On those occasions when Plaintiffs were not provided with all legally-
13 compliant meal periods to which they were entitled, Defendants failed to compensate Plaintiffs
14 with the required meal period premium(s) for each workday there was a meal period violation as
15 mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no
16 mechanism for the payment of meal period premium payments as required by Labor Code § 226.7,
17 in the event that a legally-compliant meal period was not provided to their non-exempt employees.

18 13. Plaintiffs and other non-exempt employees were not authorized and permitted to
19 take all required rest periods due to Defendants' unlawful rest period policies/practices, which
20 failed to authorize and permit a net 10-minute rest period for every four hours worked, or major
21 fraction thereof. Specifically, although Plaintiffs and other non-exempt employees regularly
22 worked shifts in excess of 8.0 hours, Plaintiffs and other non-exempt employees were often not
23 authorized to take a single rest period during the entirety of their shift. On those occasions when
24 Plaintiffs were not authorized and permitted to take all legally-compliant rest periods to which
25 they were entitled, Defendants failed to compensate Plaintiffs with the required rest period
26 premium(s) for each workday there was a rest period violation as mandated by Labor Code §
27 226.7. Upon information and belief, Defendants maintained no mechanism for the payment of
28 rest period premium payments as required by Labor Code § 226.7, in the event that a legally-

compliant rest period was not authorized and permitted to their non-exempt employees.

14. As a result of Defendants' failure to pay all minimum and overtime wages and failure to pay all meal and rest period premium wages, Defendants failed to timely pay all final wages to Plaintiffs and other former employees upon their separation of employment from Defendants. As a further result of Defendants' failure to pay all minimum and overtime wages and failure to pay all meal and rest period premium wages, Defendants maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements.

15. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for each cause of action pled herein has been calculated to include 178 days preceding the filing of this action.

CLASS ACTION ALLEGATIONS

16. **Class Definitions:** Plaintiffs bring this action on behalf of themselves and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies and/or practices, during the four years and 178 days immediately preceding the filing of this action through the present.
- b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than eight (8) hours per day and/or forty (40) hours per week and were subject to Defendants' timekeeping policies and/or practices, during the four years and 178 days immediately preceding the filing of this action through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who: (i) worked at least one shift in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years and 178 days immediately preceding the filing of this action through the present.

1 d. The Rest Period Class consists of all of Defendants' current and former non-
2 exempt employees in California who worked at least one shift in excess of 3.5
3 hours, during the four years and 178 days immediately preceding the filing of this
4 action through the present.

5 e. The Waiting Time Penalty Class consists of Defendants' formerly employed
6 members of the Minimum Wage Class, Overtime Class, Rest Period Class, and/or
7 Meal Period Class, during the three years and 178 days immediately preceding the
8 filing of this action through the present.

9 f. The Wage Statement Class consists of the Minimum Wage Class, Overtime Class,
10 Meal Period Class and/or Rest Period Class who have received a wage statement
11 from Defendants during the one year and 178 days immediately preceding the
12 filing of this action through the present.

13 17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
14 joinder of all members would be unfeasible and not practicable. The membership of the Classes
15 and Subclasses are unknown to Plaintiffs at this time; however, it is estimated that the members
16 of the Classes number greater than one hundred (100) individuals. The identity of such
17 membership is readily ascertainable via inspection of Defendants' employment records.

18 18. **Common Questions of Law and Fact Predominate/Well Defined Community**
19 **of Interest:** There are common questions of law and fact as to Plaintiffs and all other similarly
20 situated employees, which predominate over questions affecting only individual members
21 including, without limitation to:

22 i. Whether Defendants properly paid all overtime wages to members of the Overtime
23 Class;

24 ii. Whether Defendants paid at least the minimum wage for all hours worked to
25 members of the Minimum Wage Class;

26 iii. Whether Defendants provided all legally compliant meal periods to members of
27 the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;

28 iv. Whether Defendants authorized and permitted all legally compliant rest periods to

- 1 members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- 2 v. Whether Defendants provided meal and rest period premium payments for non-
- 3 compliant meal and rest periods;
- 4 vi. Whether Defendants' policies and/or practices for the timing and amount of
- 5 payment of final wages to members of the Waiting Time Class at the time of their
- 6 separation of employment were lawful; and
- 7 vii. Whether Defendants furnished legally compliant wage statements to members of
- 8 the Wage Statement Class pursuant to Labor Code § 226.

9 19. **Predominance of Common Questions:** Common questions of law and fact
10 predominate over questions that affect only individual members of the Classes. The common
11 questions of law set forth above are numerous and substantial and stem from Defendants' policies
12 and/or practices applicable to each individual class member, including but not limited to
13 Defendants' timekeeping policies/practices, and meal and rest period policies/practices. As such,
14 the common questions predominate over individual questions concerning each individual class
15 member's showing as to their eligibility for recovery or as to the amount of their damages.

16 20. **Typicality:** The claims of Plaintiffs are typical of the claims of the Classes because
17 Plaintiffs were employed by Defendants as non-exempt employees in California during the
18 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
19 herein, Plaintiffs, like the members of the Classes, were not paid all minimum and overtime wages
20 owed due to Defendants' timekeeping policies/practices, were not provided all required meal
21 periods, were not authorized and permitted all rest periods, did not receive premium pay for non-
22 compliant meal and rest periods, did not receive accurate, compliant, itemized wage statements,
23 and were not paid all wages owed at termination of employment.

24 21. **Adequacy of Representation:** Plaintiffs are fully prepared to take all necessary
25 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
26 Plaintiffs' attorneys are ready, willing and able to fully and adequately represent the members of
27 the Classes and Plaintiffs. Plaintiffs' attorneys have prosecuted and defended numerous wage-
28 and-hour class actions in state and federal courts in the past and are committed to vigorously

1 prosecuting this action on behalf of the members of the Classes.

2 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
3 an important public interest in establishing minimum working conditions and standards in
4 California. These laws and labor standards protect the average working employee from
5 exploitation by employers who have the responsibility to follow the laws and who may seek to
6 take advantage of superior economic and bargaining power in setting onerous terms and
7 conditions of employment. The nature of this action and the format of laws available to Plaintiffs
8 and members of the Classes make the class action format a particularly efficient and appropriate
9 procedure to redress the violations alleged herein. If each employee were required to file an
10 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
11 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
12 their vastly superior financial and legal resources. Moreover, requiring each member of the
13 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
14 employees who would be disinclined to file an action against their former and/or current employer
15 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
16 employment. Further, the prosecution of separate actions by the individual class members, even
17 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
18 with respect to the individual class members against Defendants herein; and which would
19 establish potentially incompatible standards of conduct for Defendants; and/or legal
20 determinations with respect to individual class members which would, as a practical matter, be
21 dispositive of the interest of the other class members not parties to adjudications or which would
22 substantially impair or impede the ability of the class members to protect their interests. Further,
23 the claims of the individual members of the Class are not sufficiently large to warrant vigorous
24 individual prosecution considering all of the concomitant costs and expenses attending thereto.
25 As such, the Classes identified in Paragraph 16 are maintainable as classes under § 382 of the
26 Code of Civil Procedure.

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FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

23. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

24. Wage Order 16, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its pay practices to the requirements of the law by failing to pay Plaintiffs and members of the Minimum Wage Class for all hours worked, including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 16.

25. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

26. As a consequence of Defendants' non-payment of minimum wages, Plaintiffs and members of the Minimum Wage Class seek penalties pursuant to Wage Order 16 § 18(A) and California Labor Code § 1199; interest pursuant to California Labor Code §§ 218.6 and 1194 and Civil Code §§ 3287 and 3289; liquidated damages pursuant to California Labor Code § 1194.2; attorneys' fees and costs of suit pursuant to California Labor Code § 1194 *et seq.*; and damages and/or penalties pursuant to California Labor Code § 558(a).

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY ALL OVERTIME WAGES**

3 **(AGAINST ALL DEFENDANTS)**

4 27. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

5 28. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and
6 1198, which provide that non-exempt employees are entitled to all overtime wages and
7 compensation for all overtime hours worked and provide a private right of action for the failure
8 to pay all overtime compensation for overtime work performed.

9 29. At all times relevant herein, Defendants were required to properly compensate
10 non-exempt employees, including Plaintiffs and members of the Overtime Class, for all overtime
11 hours worked pursuant to California Labor Code § 1194 and Wage Order 16. Wage Order 16, §
12 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular
13 rate of pay” for all overtime hours work. Defendants caused Plaintiffs and members of the
14 Overtime Class to work overtime hours, but failed to credit these employees with all overtime
15 hours actually worked.

16 30. The foregoing policies and practices are unlawful and create entitlement to
17 recovery by Plaintiffs and the Overtime Class members in a civil action for the unpaid amount of
18 overtime premiums owing, including interest thereon, statutory penalties, attorneys’ fees, and
19 costs of suit according to California Labor Code §§ 204, 210, 216, 218.6, 510, 1194, and 1198;
20 Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and 3289.

21 **THIRD CAUSE OF ACTION**

22 **MEAL PERIOD VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

24 31. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

25 32. Plaintiffs are informed and believe, and based thereon allege, that Defendants
26 failed in their affirmative obligation to provide all of their non-exempt employees in California,
27 including Plaintiffs and members of the Meal Period Class, with all legally compliant meal
28 periods in accordance with the mandates of the California Labor Code and Wage Order 16, § 10.

1 Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiffs and
2 members of the Meal Period Class at their respective regular rates of compensation, in accordance
3 with California Labor Code §§ 204, 210, 226.7, and 512.

4 33. As a result, Defendants are responsible for paying premium compensation for meal
5 period violations including interest thereon, statutory penalties, civil penalties, and costs of suit,
6 pursuant to Labor Code §§ 226.7, 512, 558, Wage Order 16, and Civil Code §§ 3287(b) and 3289.

7 **FOURTH CAUSE OF ACTION**

8 **REST PERIOD VIOLATIONS**

9 **(AGAINST ALL DEFENDANTS)**

10 34. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

11 35. Wage Order 16, § 11 and California Labor Code §§ 226.7, 516 and 558 establish
12 the right of employees to be provided with a rest period of at least ten (10) minutes for each four
13 (4) hour period worked, or major fraction thereof. Despite Defendants' failure to authorize and
14 permit Plaintiffs and members of the Rest Period Class to take all legally complaint rest periods
15 as alleged herein, Defendants did not pay these individuals an additional hour of pay at their
16 respective regular rate for the rest periods that they failed to authorize and permit them to take, as
17 required by Labor Code § 226.7.

18 36. Defendants' policies and practices described herein are unlawful and create an
19 entitlement to recovery by Plaintiffs and members of the Rest Period Class in a civil action for
20 the unpaid amount of rest period premiums owing, including interests thereon, statutory penalties,
21 civil penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 226.7,
22 516, 558, Wage Order 16, and Civil Code §§ 3287(b) and 3289.

23 **FIFTH CAUSE OF ACTION**

24 **WAITING TIME PENALTIES**

25 **(AGAINST ALL DEFENDANTS)**

26 37. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

27 38. This cause of action is brought pursuant to Cal. Labor Code §§ 201-203, which
28 require an employer to pay all wages immediately at the time of separation of employment in the

1 event the employer discharges the employee or the employee provides at least 72 hours of notice
2 of their intent to quit. In the event the employee provides less than 72 hours of notice of their
3 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
4 employee's last date of employment.

5 39. Plaintiffs are informed and believe, and based thereon allege, that Defendants
6 failed to timely pay Plaintiffs and members of the Waiting Time Class all final wages due to them
7 at their separation from employment, including unpaid minimum and overtime wages as well as
8 unpaid meal and rest period premium wages.

9 40. Further, Plaintiffs are informed and believe, and based thereon allege, that as a
10 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiffs and members
11 of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant
12 to the requirements of Cal. Labor Code §§ 201-203.

13 41. Defendants' failure to pay all final wages was willful within the meaning of Cal.
14 Labor Code § 203. Defendants' willful failure to timely pay Plaintiffs and the members of the
15 Waiting Time Class their earned wages upon separation from employment results in a continued
16 payment of daily wages up to thirty days from the time the wages were due.

17 42. Plaintiffs and members of the Waiting Time Class are entitled to compensation
18 pursuant to Cal. Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

19 **SIXTH CAUSE OF ACTION**

20 **WAGE STATEMENT VIOLATIONS**

21 **(AGAINST ALL DEFENDANTS)**

22 43. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

23 44. Plaintiffs are informed and believe, and based thereon allege, that Defendants
24 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiffs
25 and members of the Wage Statement Class with accurate and complete, itemized wage statements
26 that included, among other requirements, all hours worked, total gross wages earned, all rates of
27 pay and corresponding number of hours worked, total net wages earned, and the correct name of
28 the legal entity that is the employer in violation of Labor Code § 226 *et seq.*

1 45. Defendants' failure to furnish Plaintiffs and members of the Wage Statement Class
2 with accurate and complete, itemized wage statements resulted in actual injury, as said failures
3 led to, among other things, the non-payment of minimum and overtime wages and meal and rest
4 period premium wages owed, and deprived them of the information necessary to identify the
5 discrepancies in Defendants' reported data.

6 46. Defendants' failures create an entitlement to recovery by Plaintiffs and members
7 of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
8 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and
9 costs of suit according to California Labor Code § 226 *et seq.*

10 **SEVENTH CAUSE OF ACTION**

11 **UNFAIR COMPETITION**

12 **(AGAINST ALL DEFENDANTS)**

13 47. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

14 48. Defendants have engaged and continue to engage in unfair and/or unlawful
15 business practices in California in violation of California Business and Professions Code § 17200
16 *et seq.*, by: (a) failing to pay Plaintiffs and members of the Overtime Class all overtime wages
17 owed; (b) failing to pay Plaintiffs and members of the Minimum Wage Class all minimum wages;
18 (c) failing to provide Plaintiffs and members of the Meal Period Class with all meal periods to
19 which they are entitled, and failing to pay them meal period premium payments; (d) failing to
20 authorize and permit Plaintiffs and members of the Rest Period Class all rest periods to which
21 they are entitled, and failing to pay them rest period premium payments; (e) failing to furnish
22 accurate, compliant, itemized wage statements to Plaintiff and members of the Wage Statement
23 Class; and (f) failing to pay Plaintiffs and members of the Waiting Time Class all wages due at
24 separation of employment.

25 49. Defendants' utilization of these unfair and/or unlawful business practices deprived
26 Plaintiffs and continues to deprive members of the Classes of compensation to which they are
27 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
28 over Defendants' competitors who have been and/or are currently employing workers and

attempting to do so in honest compliance with applicable wage and hour laws.

50. Because Plaintiffs are victims of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiffs for themselves and on behalf of the members of the Classes, seek full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

51. The acts complained of herein occurred within the last four years and 178 days immediately preceding the filing of the Complaint in this action.

52. Plaintiffs were compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiffs have thereby incurred the financial burden of attorneys' fees and costs, which they are entitled to recover under Code of Civil Procedure § 1021.5.

EIGHTH CAUSE OF ACTION

PRIVATE ATTORNEY GENERAL ACT

(AGAINST ALL DEFENDANTS)

53. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

54. Defendants have committed several Labor Code violations against Plaintiff Ramirez, members of the Classes, and other aggrieved employees. Plaintiff Ramirez, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiffs, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial

violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay Plaintiffs and other aggrieved employees the statutory minimum wage for all hours worked in violation of Labor Code §§ 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to compensate Plaintiffs and other aggrieved employees all overtime wages earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to provide Plaintiffs and other aggrieved employees of all legally required meal periods and failing to pay meal period premiums at the employees respective regular rates of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit Plaintiffs and other aggrieved employees their statutorily mandated rest periods and failing to pay rest period premiums in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to timely compensate Plaintiffs and similarly aggrieved employees with all final wages at their separation of employment in violation of Labor Code §§ 201-203;
- f. Failing to furnish Plaintiffs and other aggrieved employees with accurate, complete, itemized wage statements, and failing to respond to Plaintiffs and other aggrieved employees' requests to inspect and/or copy their employment records, in violation of Labor Code § 226;
- g. Failing to pay Plaintiffs and other aggrieved employees all earned wages at least twice each calendar month in violation of Labor Code § 204; and

h. Failing to maintain accurate records on behalf of Plaintiffs and aggrieved employees in violation of Labor Code § 1174, 1198, and 1199.

55. On or about December 15, 2021 Plaintiff Ramirez notified Defendants via certified mail and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff Ramirez’s intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to the violations of the California Labor Code identified in Paragraph 54 (a)-(h). Now that sixty-five days have passed from Plaintiff Ramirez notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff Ramirez has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

56. Based on the foregoing, Plaintiff Ramirez seeks to represent himself, the State of California, and all aggrieved employees, as defined by Labor Code § 2699(c), which includes all current and former non-exempt employees who worked for Defendants in California between the one year and 178 days prior to the submission of Plaintiff’s PAGA notice to the present.

57. Plaintiff Ramirez was compelled to retain the services of counsel to file this court action to protect his interest and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff Ramirez has thereby incurred attorneys’ fees and costs, which he is entitled to recover under California Labor Code § 2699.

PRAYER

WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiffs as representatives of the Classes;
3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;

1 5. Upon the Second Cause of Action, for compensatory, consequential, general and
2 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

3 6. Upon the Third Cause of Action, for compensatory, consequential, general and
4 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

5 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
6 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

7 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
8 Labor Code § 203;

9 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
10 226 *et seq.*;

11 10. Upon the Seventh Cause of Action, for restitution to Plaintiffs and members of the
12 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
13 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*
14 *seq.*;

15 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiffs, other
16 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
17 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
18 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
19 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
20 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
21 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
22 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
23 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each
24 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5)
25 \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay
26 period for those violations of the Labor Code for which no civil penalty is specifically provided,
27 based on the violations of Labor Code sections identified in Paragraph 54 (a)-(h) above.

28 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor

Code § 218.6 and Civil Code §§ 3287 and 3289;

13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226, 1194, 2699(g) and Code of Civil Procedure § 1021.5; and

14. For such other and further relief, the Court may deem just and proper.

Dated: February 14, 2022

Respectfully submitted,
HAINES LAW GROUP, APC

By:



Paul K. Haines
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial with respect to all issues triable by jury.

Dated: February 14, 2022

Respectfully submitted,
HAINES LAW GROUP, APC

By:



Paul K. Haines
Attorneys for Plaintiffs