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Assigned for All Purposes:  
Judge David A. Hoffer  
Dept. CX103

*Attorneys for Plaintiff, on behalf of the State  
of California and Aggrieved Employees*

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

PEDRO MERAZ-VALENCIA, on behalf  
of the State of California, and Aggrieved  
Employees,

*Plaintiff,*

v.

WESTLAKE ROYAL ROOFING, LLC,

*Defendant.*

Lead Case No. 30-2022-01262267-CU-OE-CXC

Consolidated with:

Case No. 2:22-cv-00491-KJM-AC, U.S.D.C., E.D. Cal.

**CLASS AND PAGA ACTION**

**CONSOLIDATED CLASS ACTION AND  
PRIVATE ATTORNEYS GENERAL ACT  
COMPLAINT FOR DAMAGES AND PENALTIES**

**DEMAND FOR JURY TRIAL**

PEDRO MERAZ-VALENCIA, on behalf  
of himself and the putative Class  
Members,

*Plaintiff,*

v.

WESTLAKE ROYAL ROOFING, LLC;  
and DOES 1–100, inclusive,

*Defendants.*

1. Failure to Pay Minimum Wages for All Hours Worked (Labor Code §§ 1182.11, 1182.12, 1194, 1197, 1197.1 and 1198);
2. Failure to Pay Overtime Wages (Labor Code § 510);
3. Failure to Provide and/or Make Available Second Meal Periods (Labor Code §§ 226.7 and 512);
4. Failure to Provide Timely and Accurate Itemized Wage Statements (Labor Code § 226, 226.3 and 226.6);
5. Waiting Time Penalties (Labor Code §§ 201–03);
6. Unlawful Business Practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*); and
7. Violation of Labor Code §§ 2699(a) and 2699(f).

1 Plaintiff Pedro Meraz-Valencia, on behalf of the State of California and other similarly situated  
2 individuals, including the putative Class Members and the Aggrieved Employees (collectively  
3 “Plaintiff”), complains and alleges as follows:

#### 4 **INTRODUCTION**

5 1. Plaintiff brings this class and Private Attorneys General Act (“PAGA”) enforcement  
6 action against Defendant Westlake Royal Roofing, LLC (“Defendant” or “Westlake”) on behalf  
7 himself, other similarly situated individuals, and the State of California for violations of California  
8 wage-and-hour laws. Plaintiff seeks damages and statutory penalties as a result of Defendant’s  
9 systematic violations.

10 2. Plaintiff, the putative Class Members, and the Aggrieved Employees are current and  
11 former non-exempt, hourly workers who have worked for Defendant in California as helpers,  
12 production workers, stackers, sheet loaders, banders, unloaders, middlemen, samplers machine  
13 operators, sorter, forklift operators and other positions performing similar job duties during all  
14 relevant times throughout California. Defendant employs and/or employed Plaintiff, the putative  
15 Class Members, and Aggrieved Employees.<sup>1</sup>

16 3. This action stems from Defendant’s policies and practices of (1) failing to compensate  
17 Plaintiff minimum wages for all hours worked; (3) failing to pay Plaintiff overtime as required by law  
18 for hours worked over eight hours in a day and/or 40 hours in a week; (4) failing to provide legally  
19 compliant second meal breaks to Plaintiff and failing to make premium payments for those non-  
20 compliant second meal breaks; (5) failing to provide Plaintiff accurate, itemized wage statements; (6)  
21 failing to timely pay Plaintiff full wages earned during employment and upon separation; and  
22 engaging in unfair business practices.

23 4. Plaintiff seeks to recover damages, penalties, interest, and reasonable attorneys’ fees for  
24 these violations to the full extent permitted by the California Labor Code and Industrial Welfare  
25 Commission (“IWC”) Wage Orders, as well as other relief requested herein.

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27 <sup>1</sup> Although Plaintiff is a former employee, the putative Class Members and Aggrieved Employees  
28 include current and former employees. For ease of discussion, the allegations herein are made in the  
present tense.

1 **PARTIES**

2 5. Plaintiff Pedro Meraz-Valencia is an individual over the age of eighteen, and at all times  
3 mentioned in this Complaint was a resident of the State of California.

4 6. Plaintiff was employed by Defendant for various projects as a helper from October 1,  
5 2018, to July 12, 2021. Plaintiff worked for Defendant in Lathrop, California.

6 7. Plaintiff is informed, believes, and thereon alleges that Westlake is a Delaware  
7 corporation headquartered in Irvine, California. Westlake is registered to do business in California,  
8 does business in California and employs and/or employed hourly, non-exempt employees, including  
9 Plaintiff, the putative Class Members, and Aggrieved Employees in California. Westlake may be  
10 served with process by serving its registered agent, National Registered Agents, Inc., 330 N Brand  
11 Blvd, Ste 700, Glendale, California 91203.

12 8. Plaintiff is informed, believes, and thereon alleges, that Defendant is in some manner  
13 intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and  
14 transactions alleged herein.

15 9. At all material times, Defendant has done business under the laws of California, has had  
16 places of business in California, including in this judicial district, and has employed putative Class  
17 Members in this District and elsewhere throughout California. Defendant is a “person” as defined in  
18 Labor Code § 18 and an “employer” as that term is used in the Labor Code, the IWC Wage Orders  
19 regulating wages, hours, and working conditions, and the California Business and Professions Code  
20 § 17201.

21 10. Defendant employs Plaintiff, the putative Class Members, and the Aggrieved  
22 Employees because Defendant, directly or indirectly, controls the employment terms, pay practices,  
23 timekeeping practices, and daily work of Plaintiff, the putative Class Members, and the Aggrieved  
24 Employees

25 **JURISDICTION AND VENUE**

26 11. Venue is proper in this County pursuant to Code of Civil Procedure §§ 393 and/or  
27 395(a). Defendant conducts business and employs putative Class Members and Aggrieved  
28

1 Employees in this County and therefore the liability and the cause or some part of the cause arose in  
2 this County.

3 12. This Court has jurisdiction over Plaintiff's claims for penalties pursuant to the PAGA.  
4 The Court also has jurisdiction over Defendant because it is a company authorized to do business in  
5 the State of California, and because Defendant in fact does business and employs workers in the State  
6 of California.

### 7 **FACTUAL ALLEGATIONS**

8 13. Westlake is a nationwide manufacturer of clay and concrete roof tiles formerly known  
9 as Boral Roofing, LLC. The name change from Boral Roofing, LLC to Westlake Royal Roofing, LLC  
10 was filed with the California Secretary of State on February 24, 2022. On information and belief,  
11 Westlake continues to operate Boral Roofing LLC's twelve clay and concrete tile manufacturing  
12 plants throughout the United States and Canada. Westlake continues to operate Boral Roofing, LLC's  
13 four California locations in Lathrop, Rialto, Irvine, and French Camp. Plaintiff is informed, believes,  
14 and thereon alleges that Westlake employs hundreds of hourly, non-exempt workers similarly situated  
15 to Plaintiff in California.

16 14. Plaintiff worked for Defendant as a helper in Lathrop, California from October 1, 2018,  
17 to July 12, 2021. Plaintiff was classified as an hourly, non-exempt employee and was paid an hourly  
18 rate that ranges from \$16.00 to \$19.00. On average, Plaintiff worked eight to 11 hours per shift, five  
19 to six days per week. Plaintiff worked approximately 40 hours or more per week.

20 15. Plaintiff's duties and work requirements consisted of loading roof tiles on pallets which  
21 he would pick up from a moving assembly line. Plaintiff and two other employees of Defendant were  
22 assigned to this post and performed this specific job assignment. Plaintiff's supervisors instructed  
23 them to ensure that the tiles were consistently loaded on pallets without any interruption. Once the  
24 tiles were loaded on pallets, another crew would be responsible for moving and unloading the pallets.  
25 The assembly line would constantly run during the entirety of Plaintiff's shift, i.e., from the beginning  
26 of his shift until the end, without interruption, unless a mechanical issue occurred.

27 16. Like Plaintiff, the putative Class Members and Aggrieved Employees are current and  
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1 former non-exempt employees of Defendant throughout California. Plaintiff is informed, believes,  
2 and thereon alleges that the putative Class Members and Aggrieved Employees perform work similar  
3 to Plaintiff. Defendant paid the putative Class Members and Aggrieved Employees, including  
4 Plaintiff, on an hourly basis.

5 17. Plaintiff is informed, believes, and thereon alleges that Defendant imposes the same  
6 work requirements of ensuring that each step of the production on the assembly line does not stop at  
7 any time during the entirety of the putative Class Members' and Aggrieved Employees' shifts.

8 18. Plaintiff is informed, believes, and thereon alleges that the policies and practices of  
9 Defendant have at all relevant times been similar for Plaintiff, the putative Class Members, and  
10 Aggrieved Employees, regardless of particular job assignment or facility location in California.

11 19. Plaintiff worked between ten (10) to eleven (11) hours or more per shift, five (5) shifts  
12 per week, or at times, six (6) shifts per week. On average, Plaintiff worked approximately fifty (50)  
13 to fifty-six (56) hours per week, or more, during his employment. Such time is exclusive of all time  
14 worked off-the-clock, as alleged herein.

15 20. Upon information and belief, the putative Class Members and Aggrieved Employees  
16 worked more than eight hours per day and more than 40 hours in at least one workweek during the  
17 one year before Plaintiff's PAGA notice was submitted with the LWDA.

18 21. Starting on or about March 2020, Defendant requires Plaintiff, the putative Class  
19 Members, and Aggrieved Employees to wait in line, to go through temperature checks and to answer  
20 COVID-19 screening questions prior to clocking in for the start of their shift. It takes Plaintiff, the  
21 putative Class Members, and Aggrieved Employees at least one minute and often longer to go through  
22 the line, to undergo such temperature checks, and to answer the COVID-19 screening questions before  
23 the beginning of each shift. For instance, during the week of December 19, 2020, Plaintiff waited in  
24 line, went through temperature checks and answered COVID-19 screening questions each day before  
25 he was permitted to clock in for the beginning of his shifts. This time spent in temperature check lines,  
26 undergoing temperature checks, and answering COVID-19 screening questions went unrecorded and  
27 therefore uncompensated.

1           22.     As a result of these policies and/or practices, Plaintiff, the putative Class Members, and  
2     Aggrieved Employees are denied compensation for all hours worked, including minimum wages and  
3     overtime, which they are lawfully owed resulting from the off-the-clock work in excess of eight (8)  
4     hours per day and forty (40) hours per week.

5           23.     Plaintiff is informed, believes, and thereon alleges that Defendant utilizes and applies  
6     these “temperature check” and “COVID-19 screening” protocols, policies, and practices across all  
7     Defendant’s facilities throughout California during the course of the COVID-19 pandemic starting on  
8     or around March 2020.

9           24.     Plaintiff is informed, believes, and thereon alleges that Defendant utilizes the same or  
10    substantially similar timekeeping mechanisms and unlawful compensation protocols throughout all  
11    its facilities in California.

12          25.     In addition to the above, for each day Plaintiff, the putative Class Members, and  
13    Aggrieved Employees work shifts of more than ten hours, Defendant systematically denies them a  
14    second meal break. Plaintiff, the putative Class Members, and Aggrieved Employees do not receive  
15    the requisite premium payments for these missed second meal breaks.

16          26.     Plaintiff, the putative Class Members, and Aggrieved Employees are systematically  
17    denied legally complaint second meal breaks because Defendant does not provide or make available  
18    timely second meal breaks to Plaintiff, the putative Class Members, and Aggrieved Employees.

19          27.     Defendant is chronically understaffed but nonetheless still requires that Plaintiff’s, the  
20    putative Class Members’, and Aggrieved Employees’ posts be staffed at all times. For instance,  
21    Plaintiff’s station requires a strict minimum of three employees at all times to run effectively, and  
22    Defendant only assigned Plaintiff and two other employees at his station, thus impeding their ability  
23    to take timely, uninterrupted, duty-free second meal breaks. Upon information and belief, Defendant’s  
24    chronic understaffing similarly impacts all putative Class Members and Aggrieved Employees who  
25    are all involved in Defendant’s production activities. Because putative Class Members and Aggrieved  
26    Employees are each assigned to a specific post of the same assembly line, Defendant requires that all  
27    posts be staffed at all times in order to avoid any interruption of production, regardless of whether it  
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1 impedes putative Class Members' and Aggrieved Employees' ability to take timely, uninterrupted,  
2 duty-free second meal breaks. Moreover, Defendant explicitly instructed Plaintiff, the putative Class  
3 Members, and Aggrieved Employees to never leave their post unattended regardless of whether it was  
4 time to take a meal and/or rest break. As for first meal breaks, Plaintiff, the putative Class Members,  
5 and Aggrieved Employees' supervisors were able to replace them at their post in order to relieve them  
6 from their duties and permit a compliant first meal break. However, no other employees of Defendant,  
7 including Plaintiff, the putative Class Members, and Aggrieved Employees' supervisors, were  
8 available or willing to relieve Plaintiff, the putative Class Members, and Aggrieved Employees from  
9 their post by the end of the tenth hour such as to permit a complaint second meal break. Because  
10 Defendant explicitly instructed Plaintiff, the putative Class Members, and Aggrieved Employees to  
11 never leave their post unless another employee or supervisor is available to replace them, Plaintiff,  
12 the putative Class Members, and Aggrieved Employees were forced to skip their second meal breaks  
13 to comply with Defendant's staffing requirement and instructions.

14 28. For instance, during the week of December 19, 2020, Plaintiff worked at least one shift  
15 lasting longer than 10 hours and did not receive a compliant second meal break and did not receive  
16 requisite premium pay for such missed second meal break.

17 29. Plaintiff is informed, believes, and thereon alleges that Defendant utilizes and applies  
18 these meal break policies and practices across all Defendant's facilities throughout California.

19 30. Defendant's common course of wage-and-hour abuse also includes failing to maintain  
20 accurate records of the hours worked by Plaintiff, the putative Class Members, and Aggrieved  
21 Employees. In particular, Defendant has failed to record all hours worked by Plaintiff, the putative  
22 Class Members, and Aggrieved Employees, including overtime.

23 31. Defendant's failure to record all hours worked also results in a failure to provide putative  
24 Class Members and Aggrieved Employees, including Plaintiff, accurate itemized wage statements as  
25 required by California law. The wage statements Defendant provides are not accurate because they  
26 do not reflect payment for all hours worked, including minimum wage and overtime compensation.  
27 Further, the wage statements are inaccurate because they do not include premium pay for non-  
28

1 compliant second meal periods. For instance, Plaintiff's wage statement for the time period beginning  
2 December 19, 2020, and ending January 1, 2022, is not accurate because it does not reflect payment  
3 for all hours worked by Plaintiff during this pay period, including overtime, for time spent by Plaintiff  
4 waiting in line, going through temperature checks and answering COVID-19 screening questions prior  
5 to clocking in for the start of each shift during this pay period. Further this wage statement is  
6 inaccurate because it does not include premium pay for non-compliant second meal periods Plaintiff  
7 suffered during the week of December 19, 2020.

8 32. Additionally, Defendant does not provide Plaintiff, the putative Class Members, and  
9 Aggrieved Employees who are former employees of Defendant with full payment of all wages owed  
10 at the end of their employment. Upon separation from employment, Plaintiff, the putative Class  
11 Members, and Aggrieved Employees were owed payments for work performed "off-the-clock",  
12 including minimum wage and overtime compensation; along with premium pay for missed and/or  
13 non-compliant second meal periods. Plaintiff was terminated from employment with Defendant on  
14 July 12, 2021, and Defendant failed to provide Plaintiff with full payment of all wages owed upon his  
15 termination date including minimum wage and overtime compensation for work performed "off-the-  
16 clock" along with premium pay for missed and/or non-complaint second meal periods.

17 33. Plaintiff is informed, believes, and thereon alleges that Defendant's failure to provide  
18 Plaintiff, the putative Class Members, and Aggrieved Employees who are former employees of  
19 Defendant with full payment of all wages owed at the end of their employment is willful and not  
20 based on a good faith and reasonable belief that their conduct complied with California law.  
21 Therefore, Defendant is subject to waiting time penalties. Putative Class Members and Aggrieved  
22 Employees are employed by Defendant and performed work materially similar to Plaintiff.

23 34. On information and belief, putative Class Members and Aggrieved Employees report to  
24 facilities owned, operated, or managed by Defendant to perform their jobs.

25 35. On information and belief, putative Class Members and Aggrieved Employees perform  
26 their jobs under Defendant's supervision using materials and technology approved and supplied by  
27 Defendant.  
28



36. On information and belief, putative Class Members and Aggrieved Employees are required to follow and abide by Defendant's common work, time, and pay policies and procedures in the performance of their jobs.

37. On information and belief, at the end of each pay period, putative Class Members and Aggrieved Employees receive wages from Defendant that are determined by common systems and methods that Defendant selects and controls.

38. On information and belief, Defendant pays putative Class Members and Aggrieved Employees on an hourly rate basis.

39. On information and belief, Defendant's method of paying Plaintiff and putative Class Members and Aggrieved Employees is willful and not based on a good faith and reasonable belief that their conduct complied with California law.

40. On information and belief, Defendant's unlawful conduct has been widespread, repeated, and consistent throughout Defendant's California facilities.

41. Defendant knows or should know that its policies and practices are unlawful and unfair.

42. Defendant's conduct is willful, carried out in bad faith, and causes significant damages to non-exempt hourly employees in an amount to be determined at trial.

## CLASS ALLEGATIONS

43. Plaintiff brings this action on behalf of himself and all other similarly situated employees as a class action pursuant to Code of Civil Procedure § 382. Plaintiff's proposed class consists of and is defined as follows:

**All current and former hourly, non-exempt employees of Westlake Royal Roofing, LLC, throughout California during the time period starting from March 14, 2018 through February 3, 2024 (“the putative Class”).**

44. Plaintiff reserves the right under California Rules of Court, rule 3.765, to amend or modify the class description(s) with greater specificity or further division into subclasses or limitation to particular issues.

45. This action has been brought and may be maintained as a class action pursuant to Code

1 of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and  
2 because the proposed classes are easily ascertained by Defendant's personnel and payroll records.

3 a. Numerosity: The potential members of the putative Class as defined are so  
4 numerous that joinder of all the members of the putative Class is impracticable.

5 b. Commonality: There are questions of law and fact common to Plaintiff and the  
6 putative Class that predominate over any questions affecting only individual  
7 members of the putative Class. These common questions of law and fact include,  
8 but are not limited to:

9 i. Whether Defendant fails to compensate putative Class Members for all  
10 hours worked, including minimum wages and overtime compensation, in  
11 violation of the Labor Code and Wage Order 16;

12 ii. Whether Defendant has a policy and/or practice of requiring putative Class  
13 Members to be in the control of Defendant, spend time primarily for the  
14 benefit of Defendant, and work for Defendant off-the-clock and without  
15 compensation;

16 iii. Whether Defendant fails to make available, and/or provide putative Class  
17 Members with compliant second meal periods to which they are entitled in  
18 violation of Cal. Lab. Code and Wage Order 16;

19 iv. Whether Defendant fails to provide putative Class Members with timely,  
20 accurate itemized wage statements in violation of the Labor Code and Wage  
21 Order 16;

22 v. Whether Defendants fails to provide putative Class Members with all wages  
23 owed upon separation from employment in violation of the Cal. Lab. Code  
24 and Wage Order 16;

25 vi. Whether Defendant violates Business and Professions Code §§17200 *et*  
26 *seq.*, by:

27 1. failing to compensate putative Class Members for all hours worked,  
28

1 including at minimum wages and overtime compensation;

- 2 2. failing to make available, and/or provide putative Class Members  
3 with compliant second meal periods to which they are entitled;  
4 3. failing to provide putative Class Members with timely, accurate  
5 itemized wage statements; and  
6 4. failing to provide putative Class Members with all wages owed upon  
7 separation from employment.

8 vii. The proper formula for calculating restitution, damages, and penalties owed  
9 to Plaintiff and the putative Class as alleged herein.

10 c. Typicality: Plaintiff's claims are typical of the claims of the Class. Defendant's  
11 common course of conduct in violation of law as alleged herein has caused Plaintiff  
12 and putative Class Members to sustain the same or similar injuries and damages.  
13 Plaintiff's claims are thereby representative of and co-extensive with the claims of  
14 the Class.

15 d. Adequacy of Representation: Plaintiff is a member of the putative Class, does not  
16 have any conflicts of interest with other putative Class Members, and will prosecute  
17 the case vigorously on behalf of the putative Class. Counsel representing Plaintiff  
18 is competent and experienced in litigating large employment class actions,  
19 including wage and hour cases. Plaintiff will fairly and adequately represent and  
20 protect the interests of the Class Members.

21 e. Superiority of Class Action: A class action is superior to other available means for  
22 the fair and efficient adjudication of this controversy. Individual joinder of all  
23 putative Class Members is not practicable, and questions of law and fact common  
24 to the putative Class predominate over any questions affecting only individual  
25 members of the putative Class. Each putative Class member has been damaged and  
26 is entitled to recovery by reason of Defendant's illegal policies and/or practices.  
27 Class action treatment will allow those similarly situated persons to litigate their  
28

claims in the manner that is most efficient and economical for the parties and the judicial system.

46. The putative Class may also be certified because the prosecution of separate actions by the individual members of the putative Class would create a risk of inconsistent or varying adjudication with respect to individual members of the putative Class, and, in turn, would establish incompatible standards of conduct for Defendant.

47. If each individual putative Class member were required to file an individual lawsuit, Defendant would necessarily gain an unconscionable advantage because Defendant would be able to exploit and overwhelm the limited resources of each member of the putative Class with Defendant's vastly superior financial legal resources.

48. Requiring each individual putative Class member to pursue an individual remedy would also discourage the assertion of lawful claims by the putative Class Members who would be disinclined to pursue these claims against Defendant because of an appreciable and justifiable fear of retaliation and permanent damage to their lives, careers, and well-being.

#### **FIRST CAUSE OF ACTION**

##### **Failure to Pay Minimum Wages for All Hours Worked Pursuant to California Labor Code §§ 1182.12, 1194, 1197, 1197.1 and 1198 (On Behalf of Plaintiff and Putative Class Against Defendant)**

49. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

50. During the applicable statutory period, California Labor Code §§, 1182.12 and 1197, and the IWC Wage Order No. 16-2001 (4) were in full force and effect, and required that Defendant's hourly employees receive the minimum wage for all hours worked irrespective of whether nominally paid on a piece rate, or any other basis; at the rate of twelve dollars (\$12.00) per hour commencing January 1, 2019; at the rate of thirteen dollars (\$13.00) per hour commencing January 1, 2020; at the rate of fourteen dollars (\$14.00) commencing January 1, 2021; at the rate of fifteen dollars (\$15.00) commencing January 1, 2022; and at the rate of fifteen dollars and fifty cents (\$15.50) commencing January 1, 2023.

51. Labor Code § 1197.1 provides, in relevant part:

Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission, shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.

52. California Labor Code §1194 states:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

53. IWC Wage Order 16-2001(2)(J) defines hours worked as "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."

54. Labor Code § 1198 makes it unlawful for employers to employ employees under conditions that violate the Wage Orders.

55. Labor Code §1194.2 provides that, in any action under Section 1194 to recover wages because of the payment of a wage less than minimum wage fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

56. Defendant willfully engaged in and continues to engage in a policy and practice of not

1 compensating Plaintiff and putative Class Members for all hours worked, including minimum wage,  
2 or spent in Defendant's control. Defendant requires Plaintiff and putative Class Members to work off-  
3 the-clock without compensation for time spent undergoing COVID-19 screenings. In other words,  
4 Plaintiff and putative Class Members are forced to perform work for the benefit of Defendant without  
5 pay.

6 57. Starting on or around March 2020, Defendant instructed Plaintiff and putative Class  
7 Members to wait in line, go through temperature checks, answer COVID-19 screening questions  
8 *before* the beginning of each shift, *i.e.*, before clocking in. It took Plaintiff and putative Class  
9 Members at least one minute and often longer to go through the temperature check line, undergo  
10 such temperature check, and answer the COVID-19 screening questions before their shift starts.  
11 Plaintiff underwent such temperature and COVID-19 screenings from on or around March 2020 until  
12 his last day of employment on or around July 12, 2021. On information and belief, such temperature  
13 and COVID-19 screenings continued taking place through the course of the COVID-19 pandemic.  
14 Defendant does not compensate Plaintiff and putative Class Members for their time spent in  
15 temperature check lines, undergoing temperature checks, and answering COVID-19-related  
16 questions.

17 58. As a result, Defendant fails to track Plaintiff and putative Class Members' actual hours  
18 worked, and consequently fails to pay Plaintiff and putative Class Members for all hours worked,  
19 including minimum wage. In violation of California law, Defendant knowingly and willfully refuses  
20 to perform their obligations to provide Plaintiff and putative Class Members with at least minimum  
21 wage compensation for all time worked.

22 59. Therefore, Defendant committed, and continues to commit, the acts alleged herein  
23 knowingly and willfully, and in conscious disregard of the Plaintiff and putative Class Members'  
24 rights. Plaintiff and putative Class Members are thus entitled to recover nominal, actual, and  
25 compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit.

26 60. Defendant has maintained policies and procedures which create a working environment  
27 where hourly employees are compensated at a rate that is less than the statutory minimum wage.  
28

61. As a direct and proximate result of the unlawful acts and/or omissions of Defendant, Plaintiff and putative Class Members have been deprived of minimum wages in an amount to be determined at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2 and 1197.1.

62. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

**SECOND CAUSE OF ACTION**  
**Failure to Pay Overtime Wages**  
**Pursuant to Labor Code § 510**  
**(On Behalf of Plaintiff and Putative Class Against Defendant)**

63. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

64. Defendant does not compensate Plaintiff and putative Class Members with the appropriate overtime rate, as required by California law.

65. Labor Code § 510 provides, in pertinent part, that:

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

66. The IWC Wage Order 16-2001(3)(A)(1) states:

The following overtime provisions are applicable ... employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than: . . . One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday,

and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and ... [d]ouble the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

67. Labor Code § 1194(a) provides that:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

68. Labor Code § 200 defines wages as "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or other method of calculation." All such wages are subject to California's overtime requirements, including those set forth above.

69. Defendant regularly does not compensate Plaintiff and putative Class Members for their overtime hours. Plaintiff and putative Class Members do not receive overtime compensation for time spent waiting in temperature check lines, undergoing temperature checks and answering COVID-19 screening questions, when the hours worked are in excess of eight (8) hours per day and forty (40) hours per week.

70. Plaintiff and putative Class Members work overtime hours for Defendant without being paid overtime premiums in violation of the Labor Code, the applicable IWC Wage Order, and other applicable law.

71. Defendant has knowingly and willfully refused to perform their obligation to provide Plaintiff and putative Class Members with premium wages for all overtime work. As a proximate result of the aforementioned violations, Defendant has damaged Plaintiff and putative Class Members in amounts to be determined according to proof at time of trial.

72. Defendant is liable to Plaintiff and putative Class Members alleged herein for the unpaid overtime with interest thereon. Furthermore, Plaintiff is entitled to an award of attorneys' fees and costs as set forth below.



73. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

**THIRD CAUSE OF ACTION**  
**Failure to Provide or Make Available Second Meal Periods**  
**Pursuant to Labor Code §§ 226.7 and 512**  
**(On Behalf of Plaintiff and the Putative Class Against Defendant)**

74. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

75. Defendant fails to provide or make available complaint second meal periods to Plaintiff and putative Class Members for shifts worked over 10 hours in a day.

76. Defendant's chronic understaffing and work requirements prevent Plaintiff and Class Members from taking compliant second meal periods for each shifts worked over 10 hours in a day because no other employees of Defendant, including supervisors, are available to relieve them from their job duties and post assignments. Plaintiff and Class Members do not receive the requisite premium pay for their missed second meal breaks as required by California law.

77. Labor Code §§ 226.7 and 512 and the applicable Wage Order require Defendant to provide or make available meal periods to its employees. Labor Code §§ 226.7 and 512 and the Wage Orders prohibit employers from employing an employee for more than five (5) hours without a meal period of not less than thirty minutes, and from employing an employee more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty minutes.

78. Unless the employee is relieved of all duty during the thirty-minute meal period, the employee is considered “on duty” and the meal period is counted as time worked under the applicable Wage Order 16-2001(10)(D).

79. Under Labor Code § 226.7(b) and the applicable Wage Order, an employer who fails to provide or make available a required meal period must, as compensation, pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period was not provided or made available.

80. Despite these requirements, Defendant has knowingly and willfully refused to perform

1 their obligations to provide or make available to Plaintiff and putative Class Members the ability to  
2 take off-duty second meal periods to which they are entitled. Defendant imposes work and staffing  
3 requirements that prevent Plaintiff and Class Members from taking second meal periods. That is  
4 because Defendant requires Plaintiff and Class Members to remain at their post at all times unless  
5 relieved by another employee or supervisor, but no other employees or supervisors are available to  
6 replace them by the tenth hour of work in order to permit a compliant second meal break. Therefore,  
7 Plaintiff and Class Members must work through such breaks to comply with Defendant's staffing  
8 and work requirements.

9 81. Defendant has also failed to pay Plaintiff and putative Class Members one (1) hour of  
10 pay for each day an off-duty second meal period was denied. Defendants' conduct described herein  
11 violates Labor Code §§ 226.7 and 512. Therefore, pursuant to Labor Code § 226.7(b), Plaintiff and  
12 putative Class Members are entitled to compensation for the failure to provide or make available  
13 second meal periods, plus interest, expenses and costs of suit.

14 82. As a proximate result of the aforementioned violations, Plaintiff and putative Class  
15 Members have been damaged in an amount according to proof at time of trial. Wherefore, Plaintiff  
16 and the putative Class request relief as hereinafter provided.

17 **FOURTH CAUSE OF ACTION**  
18 **Failure to Provide Accurate Itemized Wage Statements**  
19 **Pursuant to Labor Code §§ 226, 226.3 and 226.6**  
**(On Behalf of Plaintiff and Putative Class Against Defendant)**

20 83. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
21 herein.

22 84. Defendant does not provide Plaintiff and putative Class Members with accurate  
23 itemized wage statements as required by California law.

24 85. Labor Code § 226(a) provides that:

25 Every employer shall, semimonthly or at the time of each payment of  
26 wages, furnish each of his or her employees, either as a detachable part  
27 of the check, draft, or voucher paying the employee's wages, or  
28 separately when wages are paid by personal check or cash, an accurate  
itemized statement in writing showing (1) gross wages earned, (2) total

hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least four years at the place of employment or at a central location within the State of California.

86. The IWC Wage Orders also establishes this requirement. (See IWC Wage Order 16-2001(6).

87. Labor Code § 226.3 provides, in relevant part:

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

88. Labor Code 226.6 provides, in relevant part:

Any employer who knowingly and intentionally violates the provisions of Section 226, or any officer, agent, employee, fiduciary, or other person who has the control, receipt, custody, or disposal of, or pays, the wages due any employee, and who knowingly and intentionally participates or aids in the violation of any provision of Section 226 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned not to exceed one year, or both, at the discretion of the court.

89. Labor Code § 226(e) provides:

An employee suffering injury as a result of a knowing and intentional

failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) and is entitled to an award of costs and reasonable attorney's fees.

90. Defendant knowingly and intentionally fails to provide timely, accurate itemized wage statements to Plaintiff and putative Class Members in accordance with Labor Code § 226(a) and the IWC Wage Order. The wage statements Defendant provides their employees, including Plaintiff and putative Class Members, are inaccurate because they do not accurately reflect all hours actually worked, actual gross wages earned and/or actual net wages earned, including minimum wages and overtime, as a result of the failure to pay for time worked off-the-clock and the resulting violations described herein.

91. Defendant is liable to Plaintiff and the putative Class Members for the amounts described above with interest thereon. Furthermore, Plaintiff is entitled to an award of attorneys' fees and costs as set forth below, pursuant to Labor Code § 226(e).

92. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

**FIFTH CAUSE OF ACTION**  
**Waiting Time Penalties**  
**Pursuant to Labor Code §§ 201-203**  
**(On Behalf of Plaintiff and Putative Class Against Defendant)**

93. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

94. Defendant does not provide Class Members with their wages when due under California law after their employment with Defendant ends.

95. Cal. Lab. Code § 201 provides:

If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

96. Cal. Lab. Code § 202 provides:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her

wages at the time of quitting.

97. Cal. Lab. Code § 203 provides, in relevant part:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

98. Plaintiff and some of the putative Class Members left their employment with Defendant during the statutory period, at which time Defendant owed them unpaid wages. These earned, but unpaid, wages derive from time spent working for the benefit of Defendant, which went unrecorded and/or uncompensated, *inter alia*, waiting in line and undergoing Covid-19 screenings and temperature checks for the benefit of Defendant while “off-the-clock”.

99. Plaintiff was terminated from employment with Defendant on July 12, 2021, and Defendant failed to provide Plaintiff with full payment of all wages owed upon his termination date including minimum wage and overtime compensation for work performed “off-the-clock” along with premium pay for missed and/or non-complaint second meal periods.

100. Defendant willfully refuses and continues to refuse to pay Plaintiff and putative Class Members all the wages that are due and owing to them in the form of uncompensated time worked, upon the end of their employment as a result of Defendant’s willful failure to provide Plaintiff and the putative Class Members with payment for all hours worked, including minimum wage and overtime. In addition, Defendant willfully refused and continues to refuse to pay Plaintiff and putative Class Members premium pay for missed, interrupted and/or untimely second meal periods. As a result of Defendant’s actions, Plaintiff and Class Members have suffered and continue to suffer substantial losses, including lost earnings, and interest.

101. Defendant’s willful failure to pay Plaintiff and putative Class Members the wages due and owing them constitutes a violation of Cal. Lab. Code §§ 201-202. As a result, Defendant is liable to Plaintiff and putative Class Members for all penalties owing pursuant to Cal. Lab. Code §§ 201-203.

102. In addition, Cal. Lab. Code § 203 provides that an employee’s wages will continue as a penalty up to thirty days from the time the wages were due. Therefore, the Plaintiff and putative

1 Class Members are entitled to penalties pursuant to Cal. Lab. Code § 203, plus interest.

2 103. Wherefore, Plaintiff and putative Class Members request relief as hereinafter provided.

3 **SIXTH CAUSE OF ACTION**

4 **Violation of California Business and Professions Code §§ 17200 *et seq.***

5 104. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
6 herein.

7 105. The UCL prohibits unfair competition in the form of any unlawful, unfair, or fraudulent  
8 business acts or practices.

9 106. Business and Professions Code § 17204 allows a person injured by the unfair business  
10 acts or practices to prosecute a civil action for violation of the UCL.

11 107. Labor Code § 90.5(a) states it is the public policy of California to vigorously enforce  
12 minimum labor standards in order to ensure employees are not required to work under substandard  
13 and unlawful conditions, and to protect employers who comply with the law from those who attempt  
14 to gain competitive advantage at the expense of their workers by failing to comply with minimum  
15 labor standards.

16 108. Beginning at an exact date unknown to Plaintiff, but at least since the date four years  
17 prior to the filing of this lawsuit, Defendant has committed acts of unfair competition as defined by  
18 the UCL, by engaging in the unlawful, unfair, and fraudulent business acts and practices described  
19 in this Complaint, including, but not limited to:

20 a. violations of Labor Code §§ 225.5, 1182.12, 1194, 1997, 1197.1, 1198 and IWC  
21 Wage Order 16-2001 pertaining to payment of wages, including minimum wage,  
22 for all hours worked;

23 b. violations of Labor Code § 510 and IWC Wage Order 16-2001 pertaining to  
24 overtime;

25 c. violations of Labor Code §§ 226.7, 512 and Wage Order 16-2001 pertaining to  
26 second meal breaks;

27 109. The violations of these laws and regulations, as well as of the fundamental California  
28 public policies protecting wages, serve as unlawful predicate acts and practices for purposes of

1 Business and Professions Code §§ 17200 *et seq.*

2 110. The acts and practices described above constitute unfair, unlawful, and fraudulent  
3 business practices, and unfair competition, within the meaning of Business and Professions Code §§  
4 17200 *et seq.* Among other things, the acts and practices have taken from Plaintiff and the putative  
5 Class wages rightfully earned by them, while enabling Defendant to gain an unfair competitive  
6 advantage over law-abiding employers and competitors.

7 111. Business and Professions Code § 17203 provides that a court may make such orders or  
8 judgments as may be necessary to prevent the use or employment by any person of any practice  
9 which constitutes unfair competition.

10 112. As a direct and proximate result of the aforementioned acts and practices, Plaintiff and  
11 putative Class Members have suffered a loss of money and property, in the form of unpaid wages,  
12 which are due and payable.

13 113. Business and Professions Code § 17203 provides that the Court may restore to any  
14 person in interest any money or property which may have been acquired by means of such unfair  
15 competition. Plaintiff and putative Class Members are entitled to restitution pursuant to Business  
16 and Professions Code § 17203 for all wages and payments unlawfully withheld from employees  
17 during the four-year period prior to the filing of this Complaint. Plaintiff's success in this action will  
18 enforce important rights affecting the public interest and, in that regard, Plaintiff sues on behalf of  
19 himself as well as others similarly situated. Plaintiff and putative Class Members seek and are  
20 entitled to unpaid wages, declaratory relief, and all other equitable remedies owing to them.

21 114. Plaintiff herein takes upon himself enforcement of these laws and lawful claims.

22 115. There is a financial burden involved in pursuing this action, the action is seeking to  
23 vindicate a public right, and it would be against the interests of justice to penalize Plaintiff by forcing  
24 him to pay attorneys' fees from any recovery thereof. Attorneys' fees are appropriate pursuant to  
25 Code of Civil Procedure § 1021.5 and otherwise.

26 116. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

27 **SEVENTH CAUSE OF ACTION**  
28 **Penalties Pursuant to Labor Code § 2699(a)**

**(On Behalf of the State of California and Aggrieved Employees)**

117. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

118. Labor Code § 2699(a) provides:

“Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.”

119. Labor Code §§ 201 and 202 require employers to immediately pay wages earned and unpaid to an employee that is discharged, and to pay an employee who quits within 72 hours after he or she quits, at the latest.

120. Labor Code § 203 provides, in relevant part:

“If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employees shall continue as a penalty from the due date thereof at the same rate paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

121. Labor Code § 256 provides: “The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section 203.”

122. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by Defendant, as alleged above, to timely pay all wages owed to Plaintiff and Aggrieved Employees in compliance with Cal. Lab. Code §§ 201-202 and in the amounts established by Cal. Lab. Code § 203.

123. Labor Code § 226(a) provides:

“Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the



1 employee is paid, (7) the name of the employee and his or her social security number,  
2 (8) the name and address of the legal entity that is the employer, and (9) all applicable  
hourly rates in effect during the pay period and the corresponding number of hours  
worked at each hourly rate by the employee.

3 124. Cal. Lab. Code § 226(e)(1) provides, in relevant part:

4 An employee suffering injury as a result of a knowing and intentional failure by an  
5 employer to comply with subdivision (a) is entitled to recover the greater of all actual  
6 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and  
7 one hundred dollars (\$100) per employee for each violation in a subsequent pay period,  
not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to  
an award of costs and reasonable attorney's fees.

8 125. Labor Code § 226.3 provides:

9 "Any employer who violates subdivision (a) of Section 226 shall be subject to a civil  
10 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation  
11 in an initial citation and one thousand dollars (\$1,000) per employee for each violation  
12 in a subsequent citation, for which the employer fails to provide the employee a wage  
deduction statement or fails to keep the records required in subdivision (a) of Section  
226. The civil penalties provided for in this section are in addition to any other penalty  
provided by law."

13 126. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by  
14 Defendant, as alleged above, to provide Plaintiff and Aggrieved Employees an accurate, itemized  
15 wage statement in compliance with Cal. Lab. Code § 226(a) in the amounts established by Cal. Lab.  
16 Code § 226.3. In addition, Plaintiff seeks penalties in the amount established by Cal. Lab. Code §  
17 226(e)(1).

18 127. Pursuant to Labor Code § 2699.3(a)(1) and (2), on March 14, 2022, Plaintiff provided  
19 the Labor and Workforce Development Agency ("LWDA") with notice of his intention to file this  
20 claim. On the same day, Plaintiff served Defendant's registered agent with a courtesy copy of the  
21 notice via certified mail. At least sixty-five calendar days have passed without response from the  
22 LWDA. As such, Plaintiff satisfied the administrative prerequisites to commence this civil action in  
23 compliance with § 2699.3(a).

24 128. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved  
25 Employees, and himself as set forth in Labor Code § 2699.

26 129. Defendant is liable to Plaintiff, Aggrieved Employees, and the State of California for  
27 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an  
28

award of attorneys' fees and costs as set forth below.

130. Wherefore, Plaintiff requests relief as hereinafter provided.

**EIGHTH CAUSE OF ACTION**  
**Penalties Pursuant to Labor Code § 2699(f)**  
**(On Behalf of the State of California and Aggrieved Employees)**

131. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

132. Labor Code § 2699(f) provides:

“For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

133. Labor Code § 200 defines wages as “all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or method of calculation.”

134. Labor Code § 204(a) provides that “[a]ll wages ... earned by any person in any employment are due and payable twice during each calendar month....”

135. IWC Wage Orders 16-2001(2)(J) defines hours worked as “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.”

136. Labor Code § 1198 makes it unlawful for employers to employ employees under conditions that violate the Wage Order.

137. Labor Code § 510 provides, in relevant part:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires

an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

138. Labor Code § 1182.12 provides, in relevant part:

(a) Notwithstanding any other provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour, and on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour.

(b) Notwithstanding subdivision (a), the minimum wage for all industries shall not be less than the amounts set forth in this subdivision, except when the scheduled increases in paragraphs (1) and (2) are temporarily suspended under subdivision (d). (1) For any employer who employs 26 or more employees, the minimum wage shall be as follows:

...

(D) From January 1, 2020, to December 31, 2020, inclusive,—thirteen dollars (\$13) per hour.

(E) From January 1, 2021, to December 31, 2021, inclusive,—fourteen dollars (\$14) per hour.

(F) From January 1, 2022, and until adjusted by subdivision (c)—fifteen dollars (\$15) per hour.

...

(3) For purposes of this subdivision, “employer” means any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person. For purposes of this subdivision, “employer” includes the state, political subdivisions of the state, and municipalities.

139. Labor Code § 1197 provides:

“The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity.”

140. Labor Code § 1194 provides, in relevant part:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.

141. Labor Code §§ 226.7 and 512 and IWC Wage Orders 16-2001 requires Defendant to authorize, permit, and/or make available timely and compliant meal periods to its employees. Labor Code §§ 226.7 and 512 and IWC Wage Order 16-2001 prohibit employers from employing an

1 employee for more than five hours without a meal period of not less than thirty minutes, and from  
2 employing an employee more than ten hours per day without providing the employee with a second  
3 meal period of not less than thirty minutes. Unless the employee is relieved of all duty during the  
4 thirty-minute meal period, the employee is considered “on duty” and the meal period is counted as  
5 time worked under the applicable wage orders.

6 142. To the extent than any violation alleged herein does not carry penalties under Labor  
7 Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and  
8 Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established  
9 by Labor Code § 2699(f). Plaintiff seeks penalties pursuant to Labor Code § 2699(f) for Plaintiff  
10 and Aggrieved Employees for violations of Labor Code provisions including, but not limited, to,  
11 Labor Code § 201-203, 204, 226, 226.7, 510, 512, 1182.12, 1194, 1197, 1198, IWC Wage Order 16-  
12 2001, and any other violation alleged herein does not carry penalties under Labor Code § 2699(a).

13 143. On March 14, 2022, pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff served  
14 the California Labor and Workforce Development Agency (“LWDA”) with notice of his intention  
15 to file this claim. On the same day, Plaintiff served Defendant’s registered agent with a courtesy  
16 copy of the notice via certified mail. Sixty-five calendar days have passed without notice from the  
17 LWDA. As such, Plaintiff satisfied the administrative prerequisites to commence this civil action in  
18 compliance with § 2699.3(a), (f).

19 144. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved  
20 Employees, and himself as set forth in Labor Code § 2699(g)(1).

21 145. Defendant is liable to Plaintiff, Aggrieved Employees, and the State of California for  
22 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an  
23 award of attorneys’ fees and costs as set forth below.

24 146. Wherefore, Plaintiff requests relief as hereinafter provided.

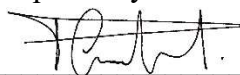
25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff, on behalf of the State of California and Aggrieved Employees,  
27 requests the following relief:  
28

1. For the Court to declare, adjudge, and decree that Defendant has violated the California Labor Code as alleged herein;
2. Damages and restitution according to proof at trial for all unpaid wages and other injuries, as provided by the California Labor Code and California Business and Professions Code;
3. For an equitable accounting to identify, locate, and restore to all current and former employees the wages they are due, with interest thereon;
4. For an order awarding Plaintiff and putative Class Members compensatory damages, including lost wages, earnings, and other employee benefits, restitution, recovery of all money, actual damages, and all other sums of money owed to Plaintiff and putative Class Members, together with interest on these amounts, according to proof;
5. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil penalties provided for under the PAGA;
6. For an award of reasonable attorneys' fees s provided by the California Labor Code, including Labor Code § 2699(g)(1), California Code of Civil Procedure § 1021.5, and/or any other applicable law;
7. For all costs of suit, as provided in Labor Code § 2699(g)(1);
8. For interest as provided by applicable law; and
9. For such other and further relief as this Court deems just and proper.

Date: October 31, 2024

Respectfully submitted,



Carolyn H. Cottrell  
Philippe M. Gaudard  
SCHNEIDER WALLACE  
COTTRELL KONECKY LLP

*Attorneys for Plaintiff, on behalf of the  
State of California and Aggrieved  
Employees*

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Date: October 31, 2024

*T. C. C.*

*Attorneys for Plaintiff, on behalf of the  
State of California and Aggrieved  
Employees*