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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

ADRIAN AGUILAR, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

FISHER RANCH CORPORATION, a
California Corporation; and DOES 1-50,
inclusive.

Defendants.

CASE NO.: CVRI2201059

[Assigned to Hon. Harold W. Hopp, Dept. 10]

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

- (1) FAILURE TO PAY ALL MINIMUM WAGES;
- (2) FAILURE TO PAY ALL OVERTIME WAGES;
- (3) MEAL PERIOD VIOLATIONS;
- (4) REST PERIOD VIOLATIONS;
- (5) WAGE STATEMENT VIOLATIONS;
- (6) FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES;
- (7) WAITING TIME PENALTIES; and
- (8) UNFAIR COMPETITION
- (9) PAGA PENALTIES

DEMAND FOR JURY TRIAL

Action Filed: March 14, 2022
Trial Date: No Trial Set

1 Plaintiff Adrian Aguilar (“Plaintiff”) on behalf of himself, the State of California, and all other
2 similarly situated employees, alleges and complains of defendants Fisher Ranch Corporation, and
3 DOES 1 to 50 (collectively, “Defendants”) and each of them, as follows:

4 **INTRODUCTION**

5 1. Defendant Fisher Ranch Corporation is a is a commercial grower specializing in the
6 cultivation of melons, broccoli, and other produce across California. Plaintiff brings this class and
7 PAGA representative action against Defendant for alleged violations of the California Labor Code
8 and Business and Professions Code.

9 2. As set forth below, Plaintiff alleges that Defendants had a uniform payroll
10 practice/policy that rounded Plaintiff and other non-exempt employees’ time entries that resulted in
11 a failure to pay for all hours worked. Plaintiff further alleges that Defendants’ meal and rest period
12 policies and practices did not provide him and all other similarly situated employees with all
13 compliant/timely meal and rest periods, or premium wages in lieu thereof. Additionally, Plaintiff
14 alleges that Defendants failed to provide non-exempt employees with accurate written itemized wage
15 statements and failed to timely pay all final wages upon separation of employment. Finally, Plaintiff
16 alleges that Defendants failed to reimburse Plaintiff and other similarly situated employees for
17 necessary business expenses. Based on these alleged Labor Code violations, Plaintiff now brings this
18 class and PAGA representative action to recover unpaid wages, restitution, penalties, and other
19 related relief on behalf of himself and all others similarly situated.

20 **JURISDICTION AND VENUE**

21 3. Plaintiff, on behalf of himself and all others similarly situated employees hereby brings
22 this class action for recovery of unpaid wages and penalties under California Labor Code §§ 201-
23 203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 516, 1194, 1197.1, 1199, 2802-2804 *et seq.*,
24 2698, *et seq.*, and applicable Industrial Welfare Commission Wage Orders (“Wage Orders”), in
25 addition to seeking declaratory relief and restitution pursuant to California Business and Professions
26 Code § 17200, *et. seq.* This class action is brought pursuant to California Code of Civil Procedure §
27 382.

28 4. This Court has jurisdiction over Defendants’ violations of the California Labor Code

1 and applicable Wage Orders because the amount in controversy exceeds this Court's jurisdictional
2 minimum.

3 5. Venue is proper in this judicial district pursuant to California Code of Civil Procedure
4 §§ 395(a) and 395.5, Defendants own, maintain offices, transact business, have an agent or agents in
5 Blythe within the County of Riverside, and/or otherwise are found within the County of Riverside,
6 and Defendants are within the jurisdiction of this Court for purposes of service of process.

7 **PARTIES**

8 6. At all relevant times herein, Plaintiff, who is over the age of 18, was and currently is a
9 California resident residing in the State of California. Defendants employed Plaintiff as a non-exempt
10 employee in Blythe, California in the County of Riverside.

11 7. Plaintiff is informed and believes and thereon alleges that defendant Fisher Ranch
12 Corporation is a California corporation authorized to and doing business in Blythe, California, and is
13 and/or was the legal employer of Plaintiff and the Class Members during the applicable statutory
14 periods. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of herein
15 and has been deprived of the rights guaranteed to him by California Labor Code §§ 201-203, 204,
16 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 516, 1194, 1197.1, 1199, and 2800 *et seq.* and
17 California Business and Professions Code § 17200 *et seq.*, and applicable Wage Orders.

18 8. Plaintiff is informed and believes, and based thereon alleges, that during the four years
19 preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to
20 do) business in the State of California, County of Riverside. Defendants operate approximately a
21 several large farms in California, including the farm on 10610 Ice Plant Rd, Blythe, California.

22 9. Plaintiff does not know the true names or capacities, whether individual, partner, or
23 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
24 Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
25 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and
26 believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or
27 corporate, were responsible in some manner for the acts and omissions alleged herein, and
28 proximately caused Plaintiff and the Classes to be subject to the unlawful employment practices

1 alleged herein.

2 10. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
3 herein, Defendants were and are the employers of Plaintiff and all members of the Classes. At all
4 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
5 alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of
6 them, were the agents, servants, and employees of each and every one of the other Defendants, as
7 well as the agents of all Defendants, and at all times herein mentioned were acting within the course
8 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
9 and/or otherwise ratified each and every one of the acts or omissions complained of herein.

10 11. At all times mentioned herein, Defendants, and each of them, were members of and
11 engaged in a joint venture, partnership, and common enterprise, and acting within the course and
12 scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff
13 alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the
14 Classes.

15 **COMMON FACTUAL ALLEGATIONS**

16 12. Defendants are commercial grower specializing in the cultivation of melons, broccoli,
17 and other produce across California. Defendants employed Plaintiff as a non-exempt employee in the
18 Blythe, California location starting on or about August 28, 2020, until February 18, 2022. Plaintiff
19 and other non-exempt employees were and are employed as non-exempt (both seasonal and non-
20 seasonal) employees across Defendants' California locations and include laborers, drivers,
21 mechanics, and all other non-exempt positions.

22 13. At all relevant times, Plaintiff alleges that the other non-exempt employees were also
23 subjected to the same policies, procedures, and practices, working conditions, and corresponding
24 wage and hour violations to which Plaintiff was subjected during his employment with Defendants.

25 14. First, at all relevant times, Defendants have had a consistent policy of unfairly rounding
26 Plaintiff and other non-exempt employees' time entries. As a result of this practice, Plaintiff and other
27 non-exempt employees are not compensated for all the hours that they work and all the overtime
28

1 hours they work, in violation of Cal. Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, and applicable
2 Wage Orders.

3 15. The Court in *See's Candy Shops v. Superior Court* (2012) 210 Cal.App.4th 889, 907,
4 held that rounding time policies can be lawful, “if the rounding policy is fair and neutral on its face
5 and ‘it is used in such a manner that it will not result, over a period of time, in failure to compensate
6 the employees properly for all the time they have actually worked,’ (29 C.F.R. § 785.48; see DLSE
7 Manual, supra, §§ 47.1, 47.2).”

8 16. Here, Defendants’ rounding time policy is not neutral on its face as Plaintiff and other
9 non-exempt employees are subject to discipline, including termination for being tardy in reporting to
10 work, or returning from a meal or rest period. Moreover, because Defendants are capable of tracking
11 the time worked by non-exempt employees to the minute, the policy itself exists not for the
12 convenience or benefit of the employees who are trying to report their time on timecards or otherwise,
13 but for Defendants’ benefit. As a result, the policy is not neutral on its face, and over a period of time,
14 Plaintiff and other non-exempt employees were not properly paid for all hours worked in violation of
15 Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, and applicable Wage Orders.

16 17. Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed
17 by an applicable state or local law, or by an order of the commission a civil penalty, restitution of
18 wages, and liquidate damages as follows: (1) for any initial violation that is intentionally committed,
19 one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
20 is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred
21 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is
22 underpaid regardless of whether the initial violation is intentionally committed.

23 18. As set forth above, Defendants failed to compensate Plaintiff and other non-exempt
24 employees for all hours worked as a result of its unlawful rounding policy. To the extent permitted
25 by law, Plaintiff and other non-exempt employees are entitled to recover liquidated damages for
26 violations of Labor Code § 1197.1. Based upon these same factual allegations, Plaintiff and other
27 non-exempt employees are entitled to penalties under Labor Code § 1199.

1 19. Next, at all relevant times, Plaintiff and other non-exempt employees were not properly
2 paid at the correct overtime rate for all hours worked in excess of eight (8) hours per workday and/or
3 forty (40) hours per workweek. While Plaintiff and other non-exempt employees regularly worked
4 overtime hours, they were not compensated at one and one-half times their regular rate of pay because
5 Defendants failed to pay for all hours, as alleged above, due to its unlawful rounding policy and
6 practice.

7 20. Generally, Labor Code § 510 requires an employer to compensate an employee who
8 works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first
9 eight (8) hours worked on the seventh consecutive day, no less than one and one-half times (1 1/2) the
10 regular rate of pay. In addition, Labor Code § 510 obligates employers to compensate employees at
11 no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a
12 workday or more than eight (8) hours on the seventh consecutive day of work. Pursuant to Section 3
13 of the applicable Wage Orders, non-exempt employees shall not be employed more than eight (8)
14 hours in any workday or more than 40 hours in any workweek unless the employee receives one and
15 one-half (1 1/2) times such employee's regular rate of pay for all hours worked over 40 hours in the
16 workweek.

17 21. In light of Assembly Bill 1066, agricultural employers with more than 25 employees,
18 including Defendants, are no longer excluded from Labor Code § 500 through 556 and 558.1 as they
19 previously were. Starting January 1, 2021, Defendants were required to compensate at 1.5 times the
20 regular rate for hours worked in excess of 8.5 per day and 45 per week. And starting on January 1,
21 2022, Defendants have the same statutory requirements as every employer in California.

22 22. By their policy of requiring Plaintiff and the other non-exempt employees to work in
23 excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating
24 them at the rate of one-half (1 1/2) their regular rate of pay, and twice the regular rate for shifts more
25 than twelve (12) hours, Defendants willfully violated the provisions of Labor Code § 510 and the
26 applicable Wage Orders.

27 23. Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed
28 by an applicable state or local law, or by an order of the commission a civil penalty, restitution of

1 wages, and liquidated damages as follows: (1) for any initial violation that is intentionally committed,
2 one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
3 is underpaid. . . [and] (2) [f]or each subsequent violation for the same specific offense, two hundred
4 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is
5 underpaid regardless of whether the initial violation is intentionally committed.

6 24. Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed
7 by an applicable state or local law, or by an order of the commission a civil penalty, restitution of
8 wages, and liquidated damages as follows: (1) for any initial violation that is intentionally committed,
9 one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
10 is underpaid. . . [and] (2) [f]or each subsequent violation for the same specific offense, two hundred
11 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is
12 underpaid regardless of whether the initial violation is intentionally committed.

13 25. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
14 are entitled to recover unpaid wages and liquidated damages for violations of Labor Code § 1197.1.
15 Based upon these same factual allegations, Plaintiff and the other non-exempt employees are entitled
16 to penalties under Labor Code § 1199.

17 26. Moreover, at all relevant times, Plaintiff and other non-exempt employees were denied
18 compliant and timely 30-minute off-duty meal periods as mandated by California law. As a result of
19 Defendants' uniform meal period policies/practices and work demands, Plaintiff and other non-
20 exempt employees were often unable to take timely and uninterrupted 30-minute uninterrupted first
21 meal periods before the end of the fifth hour of work. Considering the demands of the job, Plaintiff
22 and other non-exempt employees would have their meal period delayed beyond the fifth hour of work
23 and/or cut short due to work demands.

24 27. Furthermore, when Plaintiff and other non-exempt employees worked in excess of 10.0
25 hours in a shift, which was a regular occurrence, they were not allowed and permitted to take any
26 mandated second meal periods before the end of the tenth hour of work in violation of the Labor Code
27 and applicable Wage Orders.

28 28. Each time Plaintiff and other non-exempt employees were not provided a legally

1 compliant meal period, Defendants also failed to provide meal period premiums for missed or non-
2 compliant meal periods at the “regular rate of pay” as required by Labor Code § 226.7 and *Ferra v.*
3 *Loews Hollywood Hotel, LLC* (2021) 11 5th 858 (“*Ferra*”).

4 29. Accordingly, due to Defendants’ uniform meal period policies/practices, Plaintiff and
5 other non-exempt employees were also not provided with all legally compliant meal periods in
6 violation of Labor Code 226.7, 510, 516, and applicable IWC Wage Orders.

7 30. Next, at all relevant times, Plaintiff and other non-exempt employees were not
8 provided with 10 minutes of net rest period time for every 4 hours worked, or major fraction thereof
9 due to Defendants’ rest period policies/practices and work demands. Plaintiff, and other non-exempt
10 employees, were often unable to take their first rest period before the end of their fourth hour of work.
11 As a result, Plaintiff and other non-exempt employees were and are routinely unable to take legally
12 compliant (10) minute duty-free rest periods for every major fraction of four hours worked. This
13 includes a second rest period for shifts in excess of six hours, and a third rest period for shifts in
14 excess of 10 hours in a workday.

15 31. By not relieving all non-exempt employees of all duties during rest periods, Defendants
16 failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services, Inc.* (2016)
17 2 Cal. 5th 257, 269 [concluding that “during rest periods employers must relieve employees of all
18 duties and relinquish control over how employees spend their time.”]. In *Augustus*, the California
19 Supreme Court expressly rejected the employers’ assertion that it could provide an on-duty rest period
20 to employees who worked as security guards and further explained “that employers [must] relinquish
21 any control over how employees spend their break time and relieve their employees of all duties.” *Id.*
22 at 273.

23 32. Each time Plaintiff and other non-exempt employees were unable to take compliant
24 rest periods, Defendants failed and continue to fail to adequately pay rest period premium payments
25 at the “regular rate of pay” as required by Labor Code § 226.7 and *Ferra*.

26 33. Accordingly, due to Defendants’ uniform rest period policies/practices, Plaintiff and
27 other non-exempt employees were not provided all legally compliant rest breaks in violation of Labor
28 Code §§ 226.7, 512, and applicable Wage Orders.

1 34. Moreover, at all relevant times, Plaintiff and other non-exempt employees, at the
2 direction of Defendants and/or with Defendants' knowledge and acquiescence, have expended
3 amounts in the discharge of their duties, and for work-related purposes. Amongst other things,
4 Defendants required Plaintiff and other non-exempt employees to incur the costs associated with
5 business use of their personal tools/equipment, and other items necessary for their work. Labor Code
6 section 2802 and the applicable Wage Order requires the employer to reimburse them.

7 35. Here, although Plaintiff and other non-exempt employees used their personal
8 tools/equipment and other items in the discharge of their job duties with the knowledge or
9 acquiescence of Defendants, they were not reimbursed in any amount for expenses incurred.
10 Defendants' failure to reimburse Plaintiff and other non-exempt employees for expenses incurred in
11 their discharge of their duties continues through the present day. Indeed, any reimbursement for
12 business-related expenses is absent from Plaintiff's wage statements during his employment.

13 36. As a result of Defendants' failure to pay Plaintiff and other non-exempt employees for
14 all hours they were subject to the control of Defendants, including all minimum and overtime wages,
15 and failure to adequately pay for meal and rest period premiums at the "regular rate of pay",
16 Defendants issued wage statements which failed to accurately identify the gross wages earned, the
17 total hours worked, the net wages earned, and the correct corresponding number of hours worked at
18 each hourly rate, in violation of Labor Code § 226(a)(1), (2), (5), and (9).

19 37. Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of
20 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
21 employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for
22 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
23 deduction statement or fails to keep the required in subdivision (a) of Section 226."

24 38. Thus, for the violations of Labor Code section 226 described above, Plaintiff and other
25 non-exempt employees may also recover Labor Code § 226.3 penalties for Defendants' violations of
26 Labor Code § 226(a). Further, Defendants failed to include the legal name of the employer on the
27 wage statements furnished to Plaintiff and the non-exempt employees in violation of Labor Code
28 §226(a)(8). As such, the wage statements Defendants issued to Plaintiff and other non-exempt

1 employees are in violation of Labor Code § 226 (a). Thus, Defendants have violated Labor Code
2 §226(a) with respect to Plaintiff and other non-exempt employees. Consequently, because Defendants
3 failed to comply with Labor Code § 226(a) and applicable Wage Orders, Plaintiff and other non-
4 exempt employees would be entitled to recover penalties under Labor Code §§ 226(e).

5 39. Finally, because of, Defendants' failure to pay all minimum and overtime wages, and
6 meal and rest period premiums at the "regular rate of pay", Defendants also failed and continues to
7 fail to pay non-exempt employees all wages owed at their time of separation from employment in
8 violation of Labor Code §§ 201-203 and applicable Wage Orders. Thus, non-exempt employees
9 would be entitled to recover penalties under Labor Code §§ 201-203, and 256.

10 CLASS ACTION ALLEGATIONS

11 40. Plaintiff brings this action on behalf of himself and the following Classes pursuant to
12 § 382 of the Code of Civil Procedure:

13 All non-exempt employees who work or worked for Defendants in
14 California, during the four years immediately preceding the filing of
the Complaint through the date of trial. ("Class");

15 All non-exempt employees who work or worked for Defendants in
16 California and who worked in excess of eight hours in a day, or in
17 excess of forty hours in a workweek from four years immediately
preceding the filing of the Complaint through the date of trial.
18 ("Overtime Subclass");

19 All employees who work or worked for Defendants in California,
20 during the one year immediately preceding the filing of the Complaint
through the date of trial. ("Wage Statement Subclass")

21 All employees who work or worked for Defendants in California, and
22 who left their employ during the three years immediately preceding
the filing of the Complaint through the date of trial. ("Waiting Time
23 Penalty Subclass")

24 (collectively "the Classes")

25 41. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
26 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
27 unknown to Plaintiff at this time; however, it is estimated that the Classes consist of at least one
28

1 hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of
2 Defendants' employment and payroll records.

3 42. **Common Questions of Law and Fact Predominate/Well Defined Community of**
4 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated
5 employees, which predominate over questions affecting only individual members including, without
6 limitation to:

7 1. Whether Defendants' rounding and other timekeeping policies/practices resulted in a
8 failure to pay for all hours worked to the members of the Class;

9 2. Whether Defendants' rounding and timekeeping policies/practices resulted in a failure
10 to pay for all overtime hours worked to the members of the Overtime Subclass;

11 3. Whether Defendants provided legally compliant meal and rest periods or proper
12 compensation in lieu thereof to members of the Class;

13 4. Whether Defendants reimbursed all necessary business expenses, including, but not
14 limited to, tools necessary to perform work tasks;

15 5. Whether Defendants furnished legally compliant wage statements to members of the
16 Wage Statement Subclass pursuant to Labor Code § 226(a); and

17 6. Whether the timing and amount of payment of final wages to members of the Waiting
18 Time Penalty Subclass at the time of separation from employment were unlawful.

19 43. **Predominance of Common Questions:** Common questions of law and fact
20 predominate over questions that affect only individual members of the Classes. The common
21 questions of law set forth above are numerous and substantial and stem from Defendants' policies
22 and/or practices applicable to each individual class member, such as Defendants' policy and/or
23 practice of rounding time entries, Defendants' failure to pay all overtime compensation, Defendants'
24 failure to reimburse all necessary business expenses, Defendants' uniform policy of failing to provide
25 all compliant meal and rest periods or adequate compensation in lieu thereof, and Defendants'
26 resulting failure to provide accurate itemized wage statements, and to pay for all wages due upon
27 separation of employment. As such, the common questions predominate over individual questions
28

1 concerning each individual class member's showing as to his or her eligibility for recovery or as to
2 the amount of his or her damages.

3 44. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
4 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)
5 of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein,
6 Plaintiff, like the members of the Classes was deprived of minimum and overtime wages, was
7 deprived of meal and rest period premium wages, was subject to Defendants' uniform meal and rest
8 period policies/practices, was not reimbursed for business expenses, and was not provided accurate
9 itemized wage statements.

10 45. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
11 represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
12 attorneys are ready, willing and able to fully and adequately represent the members of the Classes.
13 Plaintiff's attorneys have prosecuted and are actively litigating several wage-and-hour class actions
14 in state and federal courts and are committed to vigorously prosecuting this action on behalf of the
15 members of the Classes.

16 46. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
17 important public interest in establishing minimum working conditions and standards in California.
18 These laws and labor standards protect the average working employee from exploitation by
19 employers who have the responsibility to follow the laws and who may seek to take advantage of
20 superior economic and bargaining power in setting onerous terms and conditions of employment. The
21 nature of this action and the format of laws available to Plaintiff and members of the Classes make
22 the class action format a particularly efficient and appropriate procedure to redress the violations
23 alleged herein. If each employee were required to file an individual lawsuit, Defendants would
24 necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the
25 limited resources of each individual plaintiff with their vastly superior financial and legal resources.

26 47. Moreover, requiring each member of the Classes to pursue an individual remedy would
27 also discourage the assertion of lawful claims by employees who would be disinclined to file an action
28 against their former and/or current employer for real and justifiable fear of retaliation and permanent

1 damages to their careers at subsequent employment. Further, the prosecution of separate actions by
2 the individual class members, even if possible, would create a substantial risk of inconsistent or
3 varying verdicts or adjudications with respect to the individual class members against Defendants
4 herein; and which would establish potentially incompatible standards of conduct for Defendants;
5 and/or legal determinations with respect to individual class members which would, as a practical
6 matter, be dispositive of the interest of the other class members not parties to adjudications or which
7 would substantially impair or impede the ability of the class members to protect their interests.
8 Further, the claims of the individual members of the class are not sufficiently large to warrant
9 vigorous individual prosecution considering all of the concomitant costs and expenses attending
10 thereto. As such, the Classes identified in Paragraph 40 are maintainable as Classes under § 382 of
11 the Code of Civil Procedure.

12 **FIRST CAUSE OF ACTION**

13 **MINIMUM WAGE VIOLATIONS**

14 **(AGAINST ALL DEFENDANTS)**

15 48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

16 49. Section 4 of the applicable Wage Orders and California Labor Code §§ 1197 and
17 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts
18 set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been
19 paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance
20 together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to
21 the unpaid wages and interest accrued thereon.

22 50. At all relevant times herein, Defendants failed to conform their pay practices to the
23 requirements of the law. This unlawful conduct includes but is not limited to Defendants' uniform
24 and unlawful practice of rounding/shaving time entries, which resulted in these individuals not being
25 paid for all hours actually worked. Accordingly, Plaintiff and members of the Class were not
26 compensated for all hours worked including, but not limited to, all hours they were subject to the
27 control of Defendants and/or suffered or permitted to work under the California Labor Code and
28 applicable Wage Orders.

51. 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.

52. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Class have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and applicable Wage Orders.

53. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members of the Class in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code §§ 204, 558, 1194 *et seq.*, 1197, 1198, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

55. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

56. At all times relevant herein, Defendants were required to properly pay Plaintiff and members of the Overtime Subclass for all overtime hours worked pursuant to California Labor Code § 1194 and the applicable Wage Orders.

57. Section 3 of the applicable Wage Order requires an employer to pay an employee “one and one-half (1 1/2) times the employee’s regular rate of pay” for work in excess of 8 hours per

1 workday and/or in excess of 40 hours of work in the workweek. The same section also requires an
2 employer to pay an employee double the employee's regular rate of pay for work in excess of twelve
3 hours each workday and/or for work in excess of 8 hours on the seventh consecutive day of work in
4 the workweek.

5 58. In light of Assembly Bill 1066, agricultural employers with more than 25 employees,
6 including Defendants, are no longer excluded from Labor Code § 500 through 556 and 558.1 as they
7 previously were. Starting January 1, 2021, Defendants were required to compensate at 1.5 times the
8 regular rate for hours worked in excess of 8.5 per day and 45 per week. And starting on January 1,
9 2022, Defendants have the same statutory requirements as every employer in California. Defendants
10 caused Plaintiff to work overtime and hours but did not compensate Plaintiff or members of the
11 Overtime Subclass at one and one-half times their regular rate of pay for such hours.

12 59. Defendants failed to conform their pay practices to the requirements of the law. This
13 unlawful conduct includes but is not limited to Defendants' uniform and unlawful policy/practice of
14 failing to pay for all hours worked due to rounding/shaving time entries, which resulted in Plaintiff
15 and the Overtime Subclass not being paid all overtime wages owed.

16 60. The foregoing policies and practices are unlawful and create entitlement to recovery
17 by Plaintiff and the members of the Overtime Subclass in a civil action for the unpaid amount of
18 overtime wages, including interest thereon, statutory penalties, attorney's fees, and costs of suit
19 according to Labor Code §§ 204, 210, 510, 1194, and 1198, the applicable Wage Orders, and Code
20 of Civil Procedure § 1021.5.

21 **THIRD CAUSE OF ACTION**

22 **MEAL PERIOD VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

24 61. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 62. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in
26 their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff
27 and members of the Class, with all required meal periods in accordance with the mandates of the
28

1 California Labor Code and applicable Wage Orders, for the reasons set forth in the Common
2 Allegations section of this Complaint.

3 63. As a result, Defendants are responsible for paying premium compensation for meal
4 period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the
5 applicable Wage Orders, Labor Code §§ 226.7, 512, and Civil Code §§ 3287(b) and 3289.

6 **FOURTH CAUSE OF ACTION**

7 **REST PERIOD VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

9 64. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 65. Section 12 of the applicable Wage Orders and Labor Code §§ 226.7 and 516 establish
11 the right of non-exempt employees to be provided with a rest period of at least ten (10) minutes for
12 each four (4) hour period worked, or major fraction thereof.

13 66. Due to their unlawful rest period policy and practices, Defendants did not authorize
14 and permit Plaintiff and members of the Class to take all rest periods to which they were legally
15 entitled. Despite Defendants' violations, Defendants have not paid an additional hour of pay at the
16 "regular rate of pay" to Plaintiff and members of the Classes at their respective regular rates of pay
17 for each violation, in accordance with California Labor Code § 226.7.

18 67. The foregoing violations create an entitlement to recovery by Plaintiff and members
19 of the Class in a civil action for the unpaid amount of rest period premiums owing, including interest
20 thereon, statutory penalties, and costs of suit pursuant to the applicable Wage Orders, Labor Code §§
21 226.7 and 516, and Civil Code §§ 3287(b) and 3289.

22 **FIFTH CAUSE OF ACTION**

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

24 **(AGAINST ALL DEFENDANTS)**

25 68. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

26 69. Labor Code 226(a) states in pertinent part the following:

27 "(a) An employer, semimonthly or at the time of each payment of wages,
28 shall furnish to his or her employee, either as a detachable part of the check,

1 draft, or voucher paying the employee's wages, or separately if wages are
2 paid by personal check or cash, an accurate itemized statement in writing
3 showing (1) gross wages earned, (2) total hours worked by the employee,
4 except as provided in subdivision (j), (3) the number of piece-rate units
5 earned and any applicable piece rate if the employee is paid on a piece-rate
6 basis, (4) all deductions, provided that all deductions made on written orders
7 of the employee may be aggregated and shown as one item, (5) net wages
8 earned, (6) the inclusive dates of the period for which the employee is paid,
9 (7) the name of the employee and only the last four digits of his or her social
10 security number or an employee identification number other than a social
11 security number, (8) the name and address of the legal entity that is the
employer and, if the employer is a farm labor contractor, as defined in
subdivision (b) of Section 1682, the name and address of the legal entity that
secured the services of 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. . .”

12 70. As set forth above, Defendants issued and continues to issue wage statements to its
13 employees including Plaintiff and members of the Wage Statement Subclass, which are inadequate
14 under Labor Code Section 226(a).

15 71. Defendants also failed to include the legal name of the employer on the wage
16 statements furnished to Plaintiff and the non-exempt employees in violation of Labor Code
17 §226(a)(8).

18 72. As a result of Defendants failure to pay Plaintiff and the Wage Statement Subclass for
19 all regular and overtime wages, and missed meal and rest period premiums at the appropriate legal
20 rate, Defendants failed to include required information on Plaintiff and the Wage Statement Subclass’
21 wage statements, including, but not limited to, the gross wages earned, the net wages earned in
22 violation of Labor Code section 226(a)(1,2,5,9).

23 73. Defendants’ failure to comply with section 226(a) of the Labor Code was knowing and
24 intentional.

25 74. As a result of Defendants’ issuance of inaccurate itemized wage statements to Plaintiff
26 and members of the Wage Statement Subclass in violation of section 226(a) of the California Labor
27 Code, Plaintiff and members of the Wage Statement Subclass are each entitled to recover an initial
28 penalty of \$50, and subsequent penalties of \$100, up to an amount not exceeding an aggregate penalty

1 of \$4,000 per Plaintiff and per every member of the Wage Statement Subclass from Defendants
2 pursuant to section 226(e) of the Labor Code, costs and reasonable attorneys' fees.

3 **SIXTH CAUSE OF ACTION**

4 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

5 **(AGAINST ALL DEFENDANTS)**

6 75. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

7 76. Labor Code 2802(a) states in pertinent part the following:

8 “(a) An employer shall indemnify his or her employee for all necessary
9 expenditures or losses incurred by the employee in direct consequence of
10 the discharge of his or her duties, or of his or her obedience to the directions
11 of the employer, even though unlawful, unless the employee, at the time of
obeying the directions, believed them to be unlawful.”

12 77. As set forth above, Plaintiff and members of the Class must be compensated for all
13 necessary business expenditures, including, but not limited to, tools necessary for the discharge of
14 their duties.

15 78. At all relevant times, by failing to reimburse Plaintiff and the Class for all necessary
16 business expenditures, Defendants have failed to comply with Labor Code Section 2802 and the
17 applicable Wage Orders.

18 79. As a result, Plaintiff and members of the Class seek reimbursement of out of pocket
19 business expenditures, and reasonable attorneys' fees and costs.

20 **SEVENTH CAUSE OF ACTION**

21 **WAITING TIME PENALTIES**

22 **(AGAINST ALL DEFENDANTS)**

23 80. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24 81. The actionable period for this cause of action is three years prior to the filing of this
25 Complaint through the present, and on-going until the violation is corrected or the class is certified.

26 82. Labor Code §§ 201 and 202 require Defendants to pay all compensation due and owing
27 to Plaintiff and the Waiting Time Subclass during the actionable period for this cause of action at or
28 around the time that their employment is or was terminated or ended.

1 83. Labor Code § 203 provides that if an employer willfully fails to pay compensation
2 promptly upon discharge or resignation, as required by Labor Code sections 201 and 202, then the
3 employer is liable for penalties in the form of continued compensation up to thirty (30) workdays.

4 84. Defendants willfully failed to pay Plaintiff and the Waiting Time Subclass for all hours
5 worked, including all minimum and overtime wages, and their meal and rest period premiums at the
6 “regular rate of pay”, prior to or upon termination or separation from employment with Defendants
7 as required by Labor Code §§ 201 and 202.

8 85. As a result, Defendants are liable to Plaintiff and the Waiting Time Subclass for
9 waiting time penalties amounting to thirty (30) days wages for Plaintiff and the Waiting Time
10 Subclass pursuant to Labor Code § 203. *See, e.g.* DLSE Manual, 4.3.4 (Failure to pay any sort of
11 wages due upon termination entitles an employee to recover waiting time penalties).

12 **EIGHTH CAUSE OF ACTION**

13 **UNFAIR COMPETITION**

14 **(AGAINST ALL DEFENDANTS)**

15 86. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

16 87. Defendants have engaged and continue to engage in unfair and/or unlawful business
17 practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by
18 failing to pay for all hours worked, and overtime wages at the legal rate, by failing to provide all
19 legally required meal and rest periods or pay premium payments at the regular rate of pay in lieu
20 thereof, by failing to provide accurate wage statements, by failing to reimburse for necessary business
21 expenses, and by failing to pay all earned wages at the time of separation from employment.

22 88. Defendants’ utilization of these unfair and/or unlawful business practices deprived
23 Plaintiff and continues to deprive members of the Classes of compensation to which they are legally
24 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
25 Defendants’ competitors who have been and/or are currently employing workers and attempting to
26 do so in honest compliance with applicable wage and hour laws.

27 89. Because Plaintiff is a victim of Defendants’ unfair and/or unlawful conduct alleged
28 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks 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.

90. The acts complained of herein occurred within the last four years immediately preceding the filing of the Complaint in this action.

91. Plaintiff was 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 hourly non-exempt employees and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

NINTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(Labor Code § 2698 et seq.)

(AGAINST ALL DEFENDANTS)

92. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

93. Defendants have committed several Labor Code violations against Plaintiff and other non-exempt employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 et seq., acting on behalf of himself and other non-exempt employees, bring this representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly non-exempt employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to (1) \$100 for each initial violation and (2) \$200 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 Plaintiff and other non-exempt employees for all hours worked, including all minimum and overtime wages in violation of Labor Code §§ 204, 510, 1194, 1197, 1198, and 1182.12

b. Failing to provide Plaintiff and other non-exempt employees with all of their statutorily mandated meal periods or compensation at the "regular rate of pay" in lieu thereof in violation of Labor Code §§ 204, 510, 558, 1194 and 1198;

1 c. Failing to authorize and permit Plaintiff and other non-exempt employees with all
2 of their statutorily mandated rest periods or compensation at the “regular rate of pay” in lieu thereof
3 in violation of Labor Code §§ 226.7, and 516;

4 d. Failing to reimburse Plaintiff and other non-exempt employees for all necessary
5 business expenditures in violation of Labor Code § 2802;

6 e. Failing to timely compensate Plaintiff and other non-exempt employees with all
7 earnings at their separation of employment in violation of Labor Code §§ 201-203;

8 f. Failing to furnish Plaintiff and other non-exempt employees with complete,
9 accurate, itemized wage statements in violations of Labor Code § 226(a); and

10 94. On or about March 7, 2022, Plaintiff notified Fisher Ranch Corporation, via certified
11 mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website of
12 Defendant’s violations of the California Labor Code § 2698 et seq., with respect to violations of the
13 California Labor Code identified in Paragraph 93 (a)-(f). Now that sixty-five days have passed from
14 Plaintiff notifying Defendant and the LWDA of these violations, Plaintiff will have exhausted his
15 administrative requirements for bringing a claim under the Private Attorneys General Act with respect
16 to these violations.

17 95. Plaintiff was compelled to retain the services of counsel to file this court action to
18 protect their interests and the interests of other non-exempt employees, and to assess and collect the
19 civil penalties owed by Defendants. Plaintiff has hereby incurred attorneys’ fees and costs, which he
20 is entitled to receive under California Labor Code § 2699.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff prays for judgment for himself and for all others on whose behalf
23 this suit is brought against Defendants, as follows:

- 24 1. For an order certifying the proposed Classes;
25 2. For an order appointing Plaintiff as representative of the Classes;
26 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
27 4. Upon the First Cause of Action, for compensatory, consequential, general and special
28 damages according to proof pursuant to Labor Code §§ 204, 210, 510, and 1194;

1 5. Upon the Second Cause of Action, for compensatory, consequential, general and
2 special damages according to proof pursuant to Labor Code §§ 204, 210, 510, 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 and 512;

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 and 516;

7 8. Upon the Fifth Cause of Action, penalties pursuant to Labor Code § 226(a), and
8 reasonable costs and attorneys' fees;

9 9. Upon the Sixth Cause of Action, penalties pursuant to Labor Code § 2802, and
10 reasonable costs and attorneys' fees;

11 10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant to
12 Labor Code §§ 201-203.

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

16 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other non-exempt
17 aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699
18 (a) and (f) including, but not limited to: (1) \$100 for each initial violation and \$200 for each
19 subsequent violation per employee per pay period for those violations of the Labor Code for which
20 no civil penalty is specifically provided under the Labor Code;

21 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
22 § 218.6 and Civil Code §§ 3287 and 3289;

23 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
24 218.5, 226, 1194, 2802, and Code of Civil Procedure § 1021.5; and

25 15. For such other relief that the Court may deem just and proper.
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Dated: July 14, 2022

FALAKSSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

By: _____

Joshua Falakassa, Esq.
Mehrdad Bokhour, Esq.
Anwar D. Burton, Esq.

Attorneys for Plaintiff and the Putative Classes

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, California 90067.

On July 19, 2022, I served the following document(s) described as **FIRST AMENDED CLASS ACTION AND PAGA COMPLAINT** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

FALAKASSA LAW, P.C.

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1901 Avenue of the Stars, Suite 450
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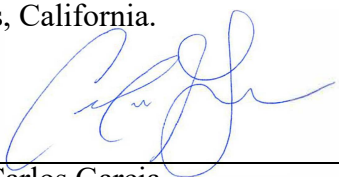
Fresno, California 93711

***Counsel for Defendant Fisher Ranch
Corporation***

BY ELECTRONIC MAIL: Based on a Court order or an agreement by the parties to accept service by e-mail or electronic transmission, I caused such the document(s) described above to be sent from my email address to the persons listed above. I did not receive, within a reasonable time after the transmission, any electronic message or indication that the transmission was unsuccessful.

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

Executed on July 19, 2022, at Los Angeles, California.



Carlos Garcia