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ANTHONY DABNEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

ANTHONY DABNEY, individually and as a
private attorney general;

Plaintiff,

vs.

MING’S RECYCLING CORPORATION, a
California corporation; MING’S RESOURCE
CORPORATION, a California corporation;
MING’S RESOURCE EAST BAY CORP, a
California corporation; MING’S
INTERNATIONAL EXPORT
CORPORATION, a California corporation
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 34-2022-00327694

Assigned for all purposes to Hon. Steven M.
Gevercer, Dept. 31

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) VIOLATION OF CALIFORNIA
LABOR CODE §§ 510 AND 1198
(UNPAID OVERTIME)**
- (2) VIOLATION OF CALIFORNIA
LABOR CODE §§ 1194, 1197 AND
1197.1 (UNPAID MINIMUM
WAGES)**
- (3) VIOLATION OF CALIFORNIA
LABOR CODE § 226.7 (UNPAID
REST PERIOD PREMIUMS)**
- (4) VIOLATION OF CALIFORNIA
LABOR CODE §§ 226.7 AND
512(a) (UNPAID MEAL PERIOD
PREMIUMS)**
- (5) VIOLATION OF CALIFORNIA
LABOR CODE § 226(a) (FAILURE
TO PROVIDE ACCURATE
WAGE STATEMENTS)**
- (6) VIOLATION OF CALIFORNIA
LABOR CODE §§ 201, 202 AND
203 (FINAL WAGES NOT
TIMELY PAID)**

(7) VIOLATION OF CALIFORNIA
BUSINESS AND PROFESSIONS
CODE § 17200, ET SEQ.

(8) PRIVATE ATTORNEY
GENERAL ACT, LABOR CODE
§2698 ET SEQ

Complaint Filed: October 3, 2022

Trial Date None Set

Plaintiff ANTHONY DABNEY ("Plaintiff"), as an individual, and as a private attorney general alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. Plaintiff's First through Seventh Causes of Action are brought as a class action on behalf of himself and similarly situated current and former employees of Defendants (hereinafter collectively referred to as the "Class" or "Class Members", as defined more fully in paragraph 14, below) pursuant to California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

3. Plaintiff's Eighth Cause of Action is brought as a representative action on behalf of himself and certain other current and former employees of Defendants against whom one or more of the alleged violations was committed (hereinafter collectively referred to as the "Aggrieved Employees") pursuant to California Labor Code sections 2698, et seq. Plaintiff is an aggrieved employee against whom one or more of the alleged violations occurred. The civil penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

4. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court "original jurisdiction in all other causes" except those given by statute to other courts. The statutes under which this action is brought do

not specify any other basis for jurisdiction.

5. This Court has jurisdiction over Defendants because, upon information and belief, Defendants re citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avails themselves of the California market so as to render the exercise of jurisdiction over them by California courts consistent with traditional notions of fair play and substantial justice.

6. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of Los Angeles. The majority of acts and omissions alleged herein relating to Plaintiff and the other class members took place in the State of California, including the County of Los Angeles.

PARTIES

1. Plaintiff is, and at all relevant times mentioned herein was, a resident of the County of Sacramento, State of California.

2. Defendant MING'S RECYCLING CORPORATION ("Ming's Recycling"), and at all times mentioned herein was, a corporation organized and existing under the laws of the State of California, doing business in the County of Sacramento, California.

3. Defendant MING'S RESOURCE CORPORATION ("Ming's Resource"), and at all times mentioned herein was, a corporation organized and existing under the laws of the State of California, doing business in the County of Sacramento, California.

4. Ming's Recycling and Ming's Resource and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

5. The acts alleged herein arose in Sacramento County, within the State of California.

6. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. The Doe defendants may be individuals, partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent, servant, employee, co-venturer, and/or co-conspirator of each of the other defendants and was at all times mentioned, acting within the scope, purpose, consent, knowledge, ratification and authorization of such agency, employment, joint venture and conspiracy. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Doe defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged was proximately caused by its conduct. Doe Defendants 1 through 50, Ming's Recycling, and Ming's Resource, are herein collectively referred to as "Defendants."

7. Plaintiff further alleges that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other class members so as to make each of said Defendants employers liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

7. Plaintiff bring this action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under California Code of Civil Procedure section 382.

8. The proposed class is defined as follows:

All current and former hourly-paid and non-except employees who worked for any of the Defendants within the State of California at any time during the period from four years preceding the filing of Plaintiff's original Complaint to final judgment.

9. Plaintiff reserves the right to establish subclasses as appropriate.

10. The class is ascertainable and there is a well-defined community of interest in the litigation:

- 1 a. Numerosity: The class members are so numerous that joinder of all class
2 members is impracticable. The membership of the entire class is unknown to
3 Plaintiff at this time; however, the class is estimated to be greater than one
4 hundred (100) individuals and the identity of such membership is readily
5 ascertainable by inspection of Defendants' employment records.
- 6 b. Typicality: Plaintiff's claims are typical of all other class members' as
7 demonstrated herein. Plaintiff will fairly and adequately protect the interests of
8 the other class members with whom he has a well-defined community of
9 interest.
- 10 c. Adequacy: Plaintiff will fairly and adequately protect the interests of each class
11 member, with whom he has a well-defined community of interest and typicality
12 of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic
13 to the other class members. Plaintiff's attorneys, the proposed class counsel, are
14 versed in the rules governing class action discovery, certification, and
15 settlement. Plaintiff has incurred, and during the pendency of this action will
16 continue to incur, costs and attorneys' fees, that have been, are, and will be
17 necessarily expended for the prosecution of this action for the substantial
18 benefit of each class member.
- 19 d. Superiority: A class action is superior to other available methods for the fair
20 and efficient adjudication of this litigation because individual joinder of all class
21 members is impractical.
- 22 e. Public Policy Considerations: Certification of this lawsuit as a class action will
23 advance public policy objectives. Employers of this great state violate
24 employment and labor laws every day. Current employees are often afraid to
25 assert their rights out of fear of direct or indirect retaliation. However, class
26 actions provide the class members who are not named in the complaint
27 anonymity that allows for the vindication of their rights.

28 11. There are common questions of law and fact as to the class members that

1 predominate over questions affecting only individual members. The following common questions
2 of law or fact, among others, exist as to the members of the class:

- 3 a. Whether Defendants' failure to pay wages, without abatement or reduction, in
4 accordance with the California Labor Code, was willful;
- 5 b. Whether Defendants' had a corporate policy and practice of failing to pay their
6 hourly-paid or non-exempt employees within the State of California for all hours
7 worked and missed (short, late, interrupted, and/or missed altogether) meal
8 periods and rest breaks in violation of California law;
- 9 c. Whether Defendants required Plaintiff and the other class members to work over
10 eight (8) hours per day and/or over forty (40) hours per week and failed to pay
11 the legally required overtime compensation to Plaintiff and the other class
12 members;
- 13 d. Whether Defendants deprived Plaintiff and the other class members of meal
14 and/or rest periods or required Plaintiff and the other class members to work
15 during meal and/or rest periods without compensation;
- 16 e. Whether Defendants failed to pay minimum wages to Plaintiff and the other class
17 members for all hours worked;
- 18 f. Whether Defendants failed to pay all wages due to Plaintiff and the other class
19 members within the required time upon their discharge or resignation;
- 20 g. Whether Defendants failed to timely pay all wages due to Plaintiff and the other
21 class members during their employment;
- 22 h. Whether Defendants complied with wage reporting as required by the California
23 Labor Code; including, *inter alia*, section 226;
- 24 i. Whether Defendants kept complete and accurate payroll records as required by
25 the California Labor Code, including, *inter alia*, section 1174(d);
- 26 j. Whether Defendants' conduct was willful or reckless;
- 27 k. Whether Defendants engaged in unfair business practices in violation of
28 California Business & Professions Code section 17200, et seq.;

1. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and

GENERAL ALLEGATIONS

8. At all relevant times set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California, including the County of Sacramento.

9. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non- exempt employee in the State of California, County of Sacramento.

10. Plaintiff was employed by Defendants from approximately July 2014 through approximately July 2021 at Defendants' location in Sacramento, California as a general laborer.

11. Plaintiff was scheduled to work Monday through Friday and required to work at least eight (8) hours per day.

12. Plaintiff's responsibilities included, in part, receiving and sorting recyclable goods dropped off at Defendants' location.

13. Defendants hired Plaintiff, the other class members, and Aggrieved Employees, classified them as hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and missed meal periods and/or rest breaks.

14. Defendants had the authority to hire and terminate Plaintiff, the other class members, and Aggrieved Employees, to set work rules and conditions governing Plaintiff's, the other class members', and Aggrieved Employees' employment, and to supervise their daily employment activities.

15. Defendants exercised sufficient authority over the terms and conditions of Plaintiff's, other class members', and Aggrieved Employees' employment for them to be joint employers of Plaintiff, the other class members, and Aggrieved Employees.

16. Defendants directly hired and paid wages and benefits to Plaintiff, the other class members, and Aggrieved Employees.

1 17. Defendants continue to employ hourly-paid or non-exempt employees within the State
2 of California.

3 18. Plaintiff, the other class members, and Aggrieved Employees worked over eight (8)
4 hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

5 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged
6 in a pattern and practice of wage abuse against their hourly-paid or non-exempt employees within
7 the State of California. This pattern and practice involved, *inter alia*, failing to pay them for all
8 regular and/or overtime wages earned and for short, late, interrupted, and/or missed meal periods
9 and rest breaks in violation of California law.

10 20. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
11 should have known that Plaintiff, the other class members, and Aggrieved Employees were entitled
12 to receive certain wages for overtime compensation and that they were not receiving accurate
13 overtime compensation for all overtime hours worked.

14 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to
15 provide Plaintiff, the other class members, and Aggrieved Employees all required rest and meal
16 periods during the relevant time period as required under the Industrial Welfare Commission Wage
17 Orders, including Wage Order numbers 1 and/or 4, and thus they are entitled to any and all
18 applicable penalties.

19 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
20 should have known that Plaintiff, the other class members, and Aggrieved Employees were entitled
21 to receive all meal periods or payment of one additional hour of pay at Plaintiff's, the other class
22 member's, and Aggrieved Employees' regular rate of pay when a meal period was missed, and
23 they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's, the
24 other class member's, and Aggrieved Employee's regular rate of pay when a meal period was
25 missed.

26 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
27 should have known that Plaintiff, the other class members, and Aggrieved Employees were entitled
28 to receive all rest periods or payment of one additional hour of pay at Plaintiff's, the other class

1 member's, and Aggrieved Employees' regular rate of pay when a rest period was missed, and they
2 did not receive all rest periods or payment of one additional hour of pay at Plaintiff's, the other
3 class members', and Aggrieved Employees' regular rate of pay when a rest period was missed.

4 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
5 should have known that Plaintiff, the other class members, and Aggrieved Employees were entitled
6 to receive at least minimum wages for compensation and that they were not receiving at least
7 minimum wages for all hours worked.

8 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
9 should have known that Plaintiff, the other class members, and Aggrieved Employees were entitled
10 to receive all wages owed upon discharge or resignation, including overtime and minimum wages
11 and meal and rest premiums, and they did not, in fact, receive all wages owed to them at the time
12 their discharge or resignation.

13 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
14 should have known that Plaintiff, the other class members, and Aggrieved Employees were entitled
15 to receive all wages owed to them during their employment. Plaintiff, the other class members,
16 and Aggrieved Employees did not receive payment of all wages, including earned, but unpaid,
17 overtime and minimum wages and meal and rest period premiums, within any time permissible
18 under California Labor Code section 204.

19 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
20 should have known that Plaintiff, the other class members, and Aggrieved Employees were entitled
21 to receive complete and accurate wage statements in accordance with California law, but, in fact,
22 they did not receive complete and accurate wage statements from Defendants. The deficiencies
23 included, *inter alia*, the failure to include the accurate total number of hours worked by Plaintiff,
24 the other class members, and Aggrieved Employees.

25 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
26 should have known that Defendants had to keep complete and accurate payroll records for Plaintiff,
27 the other class members, and Aggrieved Employees in accordance with California law, but, in fact,
28 did not keep complete and accurate payroll records.

1 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
2 should have known that Plaintiff, the other class members, and Aggrieved Employees were entitled
3 to reimbursement for necessary business-related expenses, including in part, the use of personal
4 cellphones.

5 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
6 should have known that they had a duty to compensate Plaintiff, the other class members, and
7 Aggrieved Employees pursuant to California law, and that Defendants had the financial ability to
8 pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
9 represented to Plaintiff, the other class members, and Aggrieved Employees that they were
10 properly denied wages, all in order to increase Defendants' profits.

11 31. During the relevant time period, Defendants failed to pay overtime wages to Plaintiff,
12 the other class members, and Aggrieved Employees for all overtime hours worked. Plaintiff and
13 the other class members were required to work more than eight (8) hours per day and/or forty (40)
14 hours per week without overtime compensation for all overtime hours worked.

15 32. During the relevant time period, Defendants failed to provide all requisite
16 uninterrupted, off-duty meal and rest periods to Plaintiff, the other class members, and Aggrieved
17 Employees.

18 33. During the relevant time period, Defendants failed to pay Plaintiff, the other class
19 members, and Aggrieved Employees at least minimum wages for all hours worked.

20 34. During the relevant time period, Defendants failed to pay Plaintiff, the other class
21 members, and Aggrieved Employees all wages owed to them upon discharge or resignation.

22 35. During the relevant time period, Defendants failed to pay Plaintiff, the other class
23 members, and Aggrieved Employees all wages within any time permissible under California law,
24 including, *inter alia*, California Labor Code section 204.

25 36. During the relevant time period, Defendants failed to provide complete or accurate
26 wage statements to Plaintiff, the other class members, and Aggrieved Employees.

27 37. During the relevant time period, Defendants failed to keep complete or accurate payroll
28 records for Plaintiff, the other class members, and Aggrieved Employees.

1 38. During the relevant time period, Defendants failed to properly compensate Plaintiff,
2 the other class members, and Aggrieved Employees pursuant to California law in order to increase
3 Defendants' profits.

4 39. California Labor Code section 218 states that nothing in Article 1 of the Labor Code
5 shall limit the right of any wage claimant to "sue directly ... for any wages or penalty due to him
6 [or her] under this article."

7 40. On or about July 30, 2021, Defendants provided Plaintiff with his final paycheck.

8 41. Plaintiff never received the missing wages earned upon termination of his employment.

9 42. On or about March 4, 2022, Plaintiff notified Defendants via certified mail and filed an
10 online PAGA claim notice with the California Labor and Workforce Development Agency
11 ("LWDA") identifying Defendants' violations of the California Labor Code identified in this
12 Complaint and Plaintiff's intent to bring a claim for civil penalties under California Labor Code
13 section 2698 et seq.

14 **FIRST CAUSE OF ACTION**

15 **(Violation of California Labor Code §§ 510 and 1198)**

16 **(Against All Defendants)**

17 43. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
18 forth above.

19 44. California Labor Code section 1198 and the applicable Industrial Welfare Commission
20 ("IWC") Wage Order, including Wage Order numbers 1 and/or 4, provide that it is unlawful to
21 employ persons without compensating them at a rate of pay either time-and-one-half or two-times
22 that person's regular rate of pay, depending on the number of hours worked by the person on a
23 daily or weekly basis.

24 45. Specifically, the applicable IWC Wage Order, including Wage Order numbers 1 and/or
25 4, provides that Defendants are and were required to pay Plaintiff and the other class members
26 employed by Defendants, and working more than eight (8) hours in a day or more than forty (40)
27 hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8)
28 hours in a day or more than forty (40) hours in a workweek.

1 46. The applicable IWC Wage Order, including Wage Order numbers 1 and/or 4, further
2 provides that Defendants are and were required to pay Plaintiff and the other class members
3 overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess
4 of twelve (12) hours in a day.

5 47. California Labor Code section 510 codifies the right to overtime compensation at one-
6 and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day
7 or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work,
8 and to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve
9 (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

10 48. During the relevant time period, Plaintiff and the other class members worked in excess
11 of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

12 49. During the relevant time period, Defendants intentionally and willfully failed to pay
13 overtime wages owed to Plaintiff and the other class members and failed to pay class members
14 overtime in the amount of one-and-one half time their correct regular rate of pay.

15 50. Defendants' failure to pay Plaintiff and the other class members the unpaid balance of
16 overtime compensation, as required by California laws, violates the provisions of California Labor
17 Code sections 510 and 1198, and is therefore unlawful.

18 51. Pursuant to California Labor Code section 1194, Plaintiff and the other class members
19 are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

20 **SECOND CAUSE OF ACTION**

21 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

22 **(Against All Defendants)**

23 52. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
24 forth above.

25 53. All relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that
26 the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum
27 so fixed is unlawful.

28 54. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff

1 and the other class members as required, pursuant to California Labor Code sections 1194, 1197,
2 and 1197.1.

3 55. Defendants' failure to pay Plaintiff and the other class members the minimum wage as
4 required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those
5 sections Plaintiff and the other class members are entitled to recover the unpaid balance of their
6 minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages
7 in an amount equal to the wages unlawfully unpaid and interest thereon.

8 56. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class
9 members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each
10 employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
11 minimum wages.

12 Pursuant to California Labor Code section 1194.2, Plaintiff and the other class members are
13 entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and
14 interest thereon.

15 **THIRD CAUSE OF ACTION**

16 **(Violation of California Labor Code § 226.7)**

17 **(Against All Defendants)**

18 57. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
19 forth above.

20 58. At all times herein set forth, the applicable IWC Wage Order, including Wage Order
21 numbers 1 and/or 4, and California Labor Code section 226.7 were applicable to Plaintiffs and the
22 other class members' employment by Defendants.

23 59. At all relevant times, California Labor Code section 226.7 provides that no employer
24 shall require an employee to work during any rest period mandated by an applicable order of the
25 California IWC.

26 60. At all relevant times, the applicable IWC Wage Order, including Wage Order numbers
27 1 and/or 4, provides that "[e]very employer shall authorize and permit all employees to take rest
28 periods, which insofar as practicable shall be in the middle of each work period" and that the "rest

1 period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest
2 time per four (4) hours or major fraction thereof' unless the total daily work time is less than three
3 and one-half (3 ½) hours.

4 61. During the relevant time period, Defendants required Plaintiff and other class members
5 to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per
6 each four (4) hour period worked.

7 62. During the relevant time period, Defendants willfully required Plaintiff and the other
8 class members to work during rest periods and failed to pay Plaintiff and the other class members
9 the full rest period premium for work performed during rest periods.

10 63. During the relevant time period, Defendants failed to pay Plaintiff and the other class
11 members the full rest period premium due pursuant to California Labor Code section 226.7

12 64. Defendants' conduct violates applicable IWC Wage Orders, including Wage Order
13 numbers 1 and/or 4, and California Labor Code section 226.7.

14 65. Pursuant to the applicable IWC Wage Orders, including Wage Order numbers 1 and/or
15 4, and California Labor Code section 226.7(b), Plaintiff and the other class members are entitled
16 to recover from Defendants one additional hour of pay at the employees' regular hourly rate of
17 compensation for each work day that the rest period was not provided.

18 **FOURTH CAUSE OF ACTION**

19 **(Violation of California Labor Code §§ 226.7 and 512(a))**

20 **(Against All Defendants)**

21 66. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
22 forth above.

23 67. At all relevant times, the IWC Order, including Wage Order numbers 1 and/or 4, and
24 California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class
25 members' employment by Defendants.

26 68. At all relevant times, California Labor Code section 226.7 provides that no employer
27 shall require an employee to work during any meal or rest period mandated by an applicable order
28 of the California IWC.

69. At all relevant times, the applicable IWC Wage Order, including Wage Order numbers 1 and/or 4, and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

70. At all relevant times, the applicable IWC Wage Order, including Wage Order numbers 1 and/or 4, and California Labor Code section 512(a) further provide that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

71. During the relevant time period, Plaintiff and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

72. During the relevant time period, Plaintiff and the other class members who were scheduled to work for a period of time in excess of six (6) hours were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

73. During the relevant time period, Defendants intentionally and willfully required Plaintiff and the other class members to work during meal periods and failed to compensate Plaintiff and the other class members the full meal period premium for work performed during meal periods.

74. During the relevant time period, Defendants failed to pay Plaintiff and the other class members the full meal period premium due pursuant to California Labor Code section 226.7.

1 75. Defendants' conduct violates applicable IWC Wage Order, including Wage Order
2 numbers 1 and/or 4, and California Labor Code sections 226.7 and 512(a).

3 76. Pursuant to applicable IWC Wage Order, including Wage Order numbers 1 and/or 4,
4 and California Labor Code section 226.7(b), Plaintiff and the other class members are entitled to
5 recover from Defendants one additional hour of pay at the employee's regular rate of compensation
6 for each work day that the meal or rest period is not provided.

7 **FIFTH CAUSE OF ACTION**

8 **(Violation of California Labor Code § 226(a))**

9 **(Against All Defendants)**

10 77. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
11 forth above.

12 78. Labor Code § 226(a) requires employers, including Defendants, to furnish employees
13 accurate itemized wage statements in writing showing (1) gross wages earned, (2) total hours
14 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
15 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
16 on written orders of the employee may be aggregated and shown as one item, (5) net wages
17 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
18 employee and his or her social security number, (8) the name and address of the legal entity that
19 is the employer, and (9) all applicable hourly rates in effect during the pay period and the
20 corresponding number of hours worked at each hourly rate by the employee. The deductions
21 made from payments of wages shall be recorded in ink or other indelible form, properly dated,
22 showing the month, day, and year, and a copy of the statement or a record of the deductions shall
23 be kept on file by the employer for at least three years at the place of employment or at a central
24 location within the State of California.

25 79. Defendants knowingly and intentionally, as a matter of uniform policy and practice,
26 failed to furnish Plaintiff and other class members with accurate and complete wage statements
27 regarding, among other things, correct regular rates of pay, rates of overtime pay, corresponding
28

1 hours worked at each rate of pay, total gross wages earned, proper entity name, and total net
2 wages earned, in violation of Labor Code § 226.

3 80. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff
4 and the other class members have suffered injury and damage to their statutorily-protected rights.

5 81. More specifically, Plaintiff and the other class members have been injured by
6 Defendants' intentional and willful violation of California Labor Code section 226(a) because they
7 were denied both their legal right to receive, and their protected interest in receiving, accurate and
8 itemized wage statements pursuant to California Labor Code section 226(a).

9 82. Plaintiff and the other class members are entitled to recover from Defendants the
10 greater of their actual damages caused by Defendants' failure to comply with California Labor
11 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

12 83. Plaintiff and the other class members are also entitled to injunctive relief to ensure
13 compliance with this section, pursuant to California Labor Code section 226(h).

14 **SIXTH CAUSE OF ACTION**

15 **(Violation of California Labor Code §§ 201, 202, 203)**

16 **(Against All Defendants)**

17 84. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
18 forth above.

19 85. At all times herein set forth, California Labor Code sections 201 and 202 provide that
20 if an employer discharges an employee, the wages earned and unpaid at the time of discharge are
21 due and payable immediately, and that if an employee voluntarily leaves his or her employment,
22 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,
23 unless the employee has given seventy-two (12) hours previous notice of his or her intention to
24 quit, in which case the employee is entitled to his or her wages at the time of quitting.

25 86. During the relevant time period, Defendants intentionally and willfully failed to pay
26 Plaintiff and the other class members who are no longer employed by Defendants their wages,
27 earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

28 87. Defendants' failure to pay Plaintiff and the other class members who are no longer

1 employed by Defendants' their wages, earned and unpaid, within seventy-two (72) hours of their
2 leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

3 88. California Labor Code section 203 provides that if an employer willfully fails to pay
4 wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
5 continue as a penalty from the due date thereof at the same rate until paid or until an action is
6 commenced; but the wages shall not continue for more than thirty (30) days.

7 89. Plaintiff and the other class members are entitled to recover from Defendants the
8 statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant
9 to California Labor Code section 203.

10 **SEVENTH CAUSE OF ACTION**

11 **(Violation of Cal. Business & Professions Code §§ 17200, et seq.)**

12 **(Against All Defendants)**

13 90. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
14 forth above.

15 91. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful
16 and harmful to Plaintiff, other class members, to the general public, and Defendants' competitors.
17 Accordingly, Plaintiff seeks to enforce important rights affecting the public interest within the
18 meaning of Code of Civil Procedure section 1021.5.

19 92. Defendants' activities as alleged herein are violations of California law, and constitute
20 unlawful business acts and practices in violation of California Business & Professions Code
21 section 17200, et seq.

22 93. A violation of California Business & Professions Code section 17200, et seq. may be
23 predicated on the violation of any state or federal law. In this instant case, Defendants' policies and
24 practices of requiring employees, including Plaintiff and the other class members, to work
25 overtime without paying them proper compensation violate California Labor Code sections 510
26 and 1198. Additionally, Defendants' policies and practices of requiring employees, including
27 Plaintiff and the other class members, to work through their meal and rest periods without paying
28 them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants'

1 policies and practices of failing to pay minimum wages violate California Labor Code sections
2 1194, 1197, and 1197.1. Moreover, Defendants' policies and practices of failing to timely pay
3 wages to Plaintiff and the other class members violate California Labor Code sections 201,202 and
4 204. Defendants also violated California Labor Code sections 226(a), 1174(d).

5 94. As a result of the herein described violations of California law, Defendants unlawfully
6 gained an unfair advantage over other businesses.

7 95. Plaintiff and the other class members have been personally injured by Defendants'
8 unlawful business acts and practices as alleged herein, including but not necessarily limited to the
9 loss of money and/or property.

10 96. Pursuant to California Business & Professions Code sections 17200, et seq., Plaintiff
11 and the other class members are entitled to restitution of the wages withheld and retained by
12 Defendants during a period that commences four (4) years preceding the filing of Plaintiff's
13 complaint up until the time that notice of the class action is provided to the class; an award of
14 attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable
15 laws; and an award of costs.

16 **EIGHTH CAUSE OF ACTION**

17 **(Violation of Labor Code § 2698, et seq.)**

18 **(Against All Defendants)**

19 97. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
20 forth above.

21 98. Plaintiff brings this claim as an individual employee and in his capacity as a private
22 attorney general pursuant to the Private Attorneys General Act of 2004, California Labor Code
23 section 2698, et seq. ("PAGA").

24 99. On or about March 4, 2022, Plaintiff notified Defendants via certified mail and filed an
25 online PAGA claim notice with the California Labor and Workforce Development Agency
26 ("LWDA") identifying Defendants' violations of the California Labor Code identified in this
27 Complaint and Plaintiff's intent to bring a claim for civil penalties under California Labor Code
28 section 2698 et seq. The LWDA assigned Plaintiff's case number LWDA-CM-871623-22.

1 Plaintiff also submitted a filing fee of seventy-five (\$75.00) to the LWDA in accordance with
2 Labor Code section 2699.3(a)(1)(B). Sixty-five days have passed from the date of Plaintiff's
3 notice to the LWDA, and thus Plaintiff has exhausted his administrative remedies, thereby
4 allowing Plaintiff to commence a civil action against Defendants pursuant to Labor Code section
5 2699.

6 100. During all relevant times for this action, Defendants regularly required Plaintiff and
7 Aggrieved Employees to work more than eight (8) hours per day and forty (40) hours per week.
8 However, Plaintiff and Aggrieved Employees were not paid wages, including minimum wages
9 and/or overtime wages, for such time worked. Instead, Plaintiff and Aggrieved Employees were
10 paid for just eight (8) hours in a day or forty (40) hours in a week.

11 101. During all relevant times for this action, Defendants failed to provide uninterrupted
12 meal periods to Plaintiff and Aggrieved Employees when they worked more than five (5) hours
13 per day and ten (10) hours per day because Defendants required Plaintiff and Aggrieved
14 Employees to stay on duty and never provided an uninterrupted first or second meal break.

15 102. In addition, Defendants failed to permit Plaintiff and Aggrieved Employees to take
16 uninterrupted rest breaks for any shift exceeding four (4) hours of work or a major fraction thereof.

17 103. Although Defendants failed to provide uninterrupted meal and rest breaks as required
18 by California law, Defendants failed to pay Plaintiff and Aggrieved Employees premium pay for
19 those days in which they were not permitted to take a meal and/or rest break which was duty free.

20 104. In addition, Defendants failed to provide Plaintiff and Aggrieved Employees with
21 properly itemized wage statements including because Defendants failed to include the actual hours
22 worked, the correct rate of pay and the meal and rest period premiums owed.

23 105. Further, during Plaintiff and Aggrieved Employees' employment, Defendants were
24 required to pay all wages earned for labor in excess of the normal work period not later than the
25 payday for the next regular payroll period. However, Defendants failed to pay Plaintiff and
26 Aggrieved Employees all wages due to them within the time period specified by California Labor
27 Code section 204, including premiums owed.

28 106. Plaintiff, as an "Aggrieved Employee" within the meaning of Labor Code § 2698 *et*

1 *seq.*, acting on behalf of herself and other similarly Aggrieved Employees, brings this
2 representative action against Defendants to recover the civil penalties due to Plaintiff, other
3 similarly Aggrieved Employees, and the State of California according to proof pursuant to Labor
4 Code § 2699 (a) and (f) including, but not limited to \$100.00 for each initial violation and \$200.00
5 for each subsequent violation per employee per pay period for the following Labor Code
6 violations:

- 7 a. Failing to pay Plaintiff and other similarly Aggrieved Employees all earned
8 minimum wage compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*;
- 9 b. Failing to pay Plaintiff and other similarly Aggrieved Employees all earned
10 overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et*
11 *seq.*;
- 12 c. Failing to pay Plaintiff and other similarly Aggrieved Employees an additional hour
13 of premium pay for meal period violations in violation of Labor Code §§ 226.7 and
14 512;
- 15 d. Failing to pay Plaintiff and other similarly Aggrieved Employees an additional hour
16 of premium pay for rest period violations in violation of Labor Code §§ 226.7 and
17 512;
- 18 e. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages
19 at end of employment in violation of Labor Code § 203;
- 20 f. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages
21 owed during employment;
- 22 g. Failing to furnish Plaintiff and other similarly Aggrieved Employees with
23 complete, accurate, itemized wage statements in violation of Labor Code § 226;
24 and for
- 25 h. Failing to maintain accurate records relating to Plaintiff and other similarly
26 Aggrieved Employees work periods, meal periods, total daily hours, hours per pay
27 period, and applicable pay rates;

28 107. Plaintiff was compelled to retain the services of counsel to file this court action to

1 protect his interests and other similarly aggrieved employees, and to assess and collect the civil
2 penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which they
3 are entitled to recover under California Labor Code § 2699.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, individually, and on behalf of other members of the general
6 public similarly situated, prays for relief and judgment against Defendants, jointly and severally,
7 as follows:

8 **Class Certification**

- 9 1. That this action be certified as a class action;
- 10 2. That Plaintiff be appointed as the representative of the Class;
- 11 3. That counsel for Plaintiff be appointed as Class Counsel; and
- 12 4. That Defendants provide to Class Counsel immediately the names and most current/last
13 known contact information (address, e-mail and telephone numbers) of all class
14 members.

15 **As to the First Cause of Action**

16 5. That the Court declare, adjudge and decree that Defendants violated California Labor Code
17 sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime
18 wages due to Plaintiff and the other class members;

19 6. For general unpaid wages at overtime wage rates and such general and special damages as
20 may be appropriate;

21 7. For pre-judgment interest on any unpaid overtime compensation commencing from the
22 date such amounts were due;

23 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor
24 Code section 1194; and

25 9. For such other and further relief as the Court may deem just and proper.

26 **As to the Second Cause of Action**

27 10. That the Court declare, adjudge and decree that Defendants violated California Labor Code
28 sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the

1 other class members;

2 11. For general unpaid wages and such general and special damages as may be appropriate;

3 12. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff
4 and the other class members in the amount as may be established according to proof at trial;

5 13. For pre-judgment interest on any unpaid compensation from the date such amounts were
6 due;

7 14. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor
8 Code section 1194(a);

9 15. For liquidated damages pursuant to California Labor Code section 1194.2; and

10 16. For such other and further relief as the Court may deem just and proper.

11 **As to the Third Cause of Action**

12 17. That the Court declare, adjudge and decree that Defendants violated California Labor Code
13 section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to
14 Plaintiff and the other class members;

15 18. That the Court make an award to Plaintiff and the other class members of one (1) hour of
16 pay at each employee's regular rate of compensation for each workday that a rest period was not
17 provided;

18 19. For all actual, consequential, and incidental losses and damages, according to proof;

19 20. For premium wages pursuant to California Labor Code section 226.7(b);

20 21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

21 22. For such other and further relief as the Court may deem just and proper.

22 **As to the Fourth Cause of Action**

23 23. That the Court declare, adjudge and decree that Defendants violated California Labor Code
24 sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal
25 periods (including second meal periods) to Plaintiff and the other class members;

26 24. That the Court make an award to Plaintiff and the other class members of one (1) hour of
27 pay at each employee's regular rate of compensation for each workday that a meal period was not
28 provided;

25. For all actual, consequential, and incidental losses and damages, according to proof;
26. For premium wages pursuant to California Labor Code section 226.7(b);
27. For pre-judgment interest on any unpaid wages from the date such amounts were due;
28. For reasonable attorneys' fees and costs of suit incurred herein; and
29. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

31. For actual, consequential and incidental losses and damages, according to proof;

32. For statutory penalties pursuant to California Labor Code section 226(e);

33. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and

34. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff and the other class members no longer employed by Defendants;

36. For all actual, consequential, and incidental losses and damages, according to proof;

37. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff and the other class members who have left Defendants' employ;

38. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

39. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

40. That the Court decree adjudge and decree that Defendants violated California

1 Business and Professions Code sections 17200 et seq. by failing to provide Plaintiff and the other
2 class members all overtime compensation due to them failing to provide all meal and rest periods
3 to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the
4 other class members failing to pay Plaintiffs and the other class members wages timely as required
5 by California Labor Code section 201 202 and 204 and by violating California Labor Code sections
6 226(a), 1174(d).

7 41. For restitution of unpaid wages to Plaintiff and all the other class members and all
8 pre-judgment interest from the day such amounts were due and payable.

9 42. For the appointment of a receiver to receive, manage and distribute any and all
10 funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants
11 as a result of violation of California Business and Professions Code section 17200, et seq.;

12 43. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
13 California Code of Civil Procedure section 1021.5;

14 44. For injunctive relief to ensure compliance with this section, pursuant to California
15 Business and Professions Code sections 17200 et seq.; and

16 45. For such other and further relief as the Court may deem just and proper.

17 **As to the Eighth Cause of Action**

18 46. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of California Labor Code;

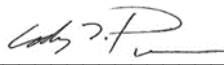
19 47. Prejudgment interest at the legal rate pursuant to California Labor Code Section 218.6;

20 48. For the imposition of civil penalties pursuant to California Labor Code §§ 2699, 210, 558,
21 226, 226.3, 1174.5, 1197.1, and all other penalties allowed by the California Labor Code and/or
22 other applicable statutes; and

23 For such other relief as the Court deems just and proper

24 DATED: May 15, 2025

PAYNE NGUYEN, LLP

26 By: 

27 Cody Payne
28 Kim Nguyen
Attorneys for Plaintiff
ANTHONY DABNEY