

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

JUL 20 2022

[Signature]
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Attorney for Plaintiff,
STEVEN TARANGO

**IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO, JUSTICE CENTER**

FAX FILE

STEVEN TARANGO, an individual, on behalf of
all others similarly situated,

Plaintiffs,

v.

COMAV TECHNICAL SERVICES, LLC, a
Delaware limited liability company, **CRAIG
GARRICK**, an individual and **DOES 1 through
20** inclusive,

Defendants.

[Handwritten signature]
5/20/22
WJS

Case No.

CIV SB 22 15599

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Overtime in Violation of Labor Code §§ 510 and 1198;
2. Failure to Provide Meal Periods in Violation of §§ 226.7, 512 (a), and 1198;
3. Failure to Indemnify for Necessary Expenditures in Violation of Labor Code § 2802;
4. Failure to Furnish Compliant Wage Statements and Maintain Accurate Pay Records in violation of § 226, 1174 (d), and 1198;
5. Failure to Timely Pay Wages in Violation of Labor Code § 204;
6. Willful Failure to Pay Wages in Violation of Labor Code §§ 201-203;
7. Civil Penalties in Violation of Labor Code §§ 2698, et seq.;
8. Unfair Competition in Violation of Labor Code §§ 17200, et seq.

Jury Trial Demanded

1 1. Plaintiff STEVEN TARANGO, on behalf of himself and all others similarly situated,
2 and as an aggrieved employee on behalf of all other aggrieved employees, is informed and believes
3 and thereon alleges as follows:

4 **PARTIES, VENUE AND JURISDICTION**

5 2. This Class Action is brought pursuant to Code of Civil Procedure § 382 to recover
6 wages and all other available relief on behalf of Plaintiff and all similarly situated current and former
7 non-exempt, hourly- paid employees of Defendants.

8 3. This enforcement action is brought pursuant to the Private Attorneys General Act of
9 2004, California Labor Code §§ 2698, et seq. (“PAGA”) to recover civil penalties and any other
10 available relief on behalf of Plaintiff, the State of California, and other current and former aggrieved
11 employees of Defendants and against whom one or more Labor Code violations or any provision
12 regulating hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
13 Order were committed, as set forth in this Complaint.

14 4. Plaintiff STEVEN TARANGO worked as a Fueler for COMAV TECHNICAL
15 SERVICES, LLC, CRAIG GARRICK, and DOES 1-20 at George Airforce Base in Victorville from
16 February 1, 2015 to about July 2015. COMAV TECHNICAL SERVICES, LLC is an aircraft repair
17 and storage company. Plaintiff’s job duties were to fuel trucks and diesel equipment. At that time,
18 Plaintiff worked for the company through a staffing agency.

19 5. On November 2, 2016, Plaintiff was hired on directly by COMAV TECHNICAL
20 SERVICES, LLC as a Level 2 Mechanic. He interviewed for this position with Jeff Green, the GSE
21 Floorman. During the interview, Mr. Green informed Mr. Tarango that he would have to supply his
22 own tools to perform the required work. Additionally, the formal job offer letter stated that Mr.
23 Tarango would be required to supply his own tools. Since working for Defendants, Plaintiff has spent
24 more than \$20,000 on tools to perform the required work.

25 6. For the Level 2 Mechanic job, Plaintiff works onsite at George Airforce Base in
26 Victorville, which is where COMAV TECHNICAL SERVICES, LLC is headquartered. Plaintiff’s
27 daily job duties are to perform maintenance on heavy equipment, such as forklifts, scissor lifts, boom
28 lifts, reach lifts, GPUs, entry stands, compressors, golf carts, hydraulics systems, trailers, tow bars,

1 generators, diesel trucks, F-250s and F-350s, and Dodge trucks. Plaintiff also removes and repairs
2 transmissions and does welding.

3 7. Plaintiff STEVEN TARANGO was at all times relevant hereto a resident and citizen
4 of Victorville, California.

5 8. At all relevant times herein, Defendant COMAV TECHNICAL SERVICES, LLC was
6 a citizen of Delaware and a Delaware limited liability company with its principal place of business in
7 Victorville, California.

8 9. Defendant CRAIG GARRICK was at all times relevant herein the principal of
9 COMAV TECHNICAL SERVICES, LLC.

10 10. Venue is proper pursuant to California Civil Procedure Code §§ 395 (a) and 395.5
11 because this suit was filed in the county where the liability arises, where the breach occurred and where
12 Defendants resided at the commencement of this action.

13 11. Plaintiff is informed and believes, and based thereon alleges that COMAV
14 TECHNICAL SERVICES, LLC, CRAIG GARRICK and DOES 1-20 are joint employers by virtue
15 of a joint enterprise, and that the employees and agents of COMAV TECHNICAL SERVICES, LLC
16 were also employees of CRAIG GARRICK and DOES 1-20. COMAV TECHNICAL SERVICES,
17 LLC employees performed services for each and every one of Defendants, and to the mutual benefit
18 of all Defendants, and all Defendants shared control of them as employees, either directly or indirectly,
19 and the manner in which Defendants' business was and is conducted.

20 12. The true names and capacities, whether individual, corporate, associate, or otherwise,
21 of the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and
22 therefore these Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this
23 Complaint to insert the true names and capacities of these Defendants when they become known to
24 Plaintiff. Plaintiff is informed and believes and based thereupon alleges, that each of the fictitiously
25 named Defendants is responsible for the wrongful acts alleged herein and are therefore liable to
26 Plaintiff as alleged hereinafter.

27 13. Plaintiff is informed and believes and based thereupon alleges, that at all times relevant
28 hereto, Defendants were the agents, employees, managing agents, supervisors, coconspirators, parent

1 corporation, joint employers, alter egos, successors, and/or joint ventures of the other Defendants, and
2 each of them, and in doing the things alleged herein, were acting at least in part within the course and
3 scope of said agency, employment, conspiracy, joint employer, alter ego status, successor status and/or
4 joint venture and with the permission and consent of each of the other Defendants.

5 14. Plaintiff is informed and believes and based thereupon alleges, that Defendants,
6 including those defendants named as DOES 1-20 acted in concert with one another to commit the
7 wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
8 wrongful acts alleged herein, and/or attempted to do so. Plaintiff is further informed and believes, and
9 based thereupon alleges, that Defendants, including those defendants named as DOES 1-20 formed
10 and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts
11 alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy,
12 intended to cause and actually causing Plaintiff's harm.

13 15. Whenever and wherever reference is made in this Complaint to any act or failure to act
14 by a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
15 and/or failures to act by each Defendant acting individually, jointly and severally.

16 **GENERAL ALLEGATIONS**

17 16. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class members
18 were not paid for all hours worked because all hours worked were not recorded.

19 17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
20 have known that Plaintiff and class members were entitled to receive certain wages for overtime
21 compensation and that they were in fact not receiving certain wages for overtime compensation.

22 18. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to receive at least minimum wages
24 for compensation and that they were not receiving at least minimum wages for work that was required
25 to be done off-the-clock. In violation of the California Labor Code, Plaintiff and class members were
26 not paid at least minimum wages for work done off-the-clock.

27 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and class members were entitled to meal periods in accordance with

1 the Labor Code or payment of one additional hour of pay at their regular rates of pay when they were
2 not provided with timely, uninterrupted, 30 minute meal periods and that Plaintiff and class members
3 were not provided with all meal periods or payment of one additional hour of pay at their regular rates
4 of pay when they did not receive a timely, uninterrupted, 30 minute meal period.

5 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and class members were entitled to 10 minute rest periods in
7 accordance with the Labor Code and applicable IWC Wage Order or payment of one additional hour
8 of pay at their regular rates of pay when they were not provided with a compliant 10 minute rest
9 period and that Plaintiff and class members were not provided compliant 10 minute rest periods or
10 payment of one additional hour of pay at their regular rates of pay when they were not provided a
11 compliant 10 minute rest period.

12 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and class members were entitled to timely payment of all wages
14 earned upon termination of employment. In violation of the California Labor Code, Plaintiff and class
15 members did not receive payment of all wages due, including overtime wages, minimum wages, and
16 meal and rest period premiums, within the time periods required by law.

17 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and class members were entitled to timely payment of wages during
19 their employment. Plaintiff and class members did not receive payment of all wages, including
20 overtime wages, minimum wages, and meal and rest period premiums in violation of the California
21 Labor Code.

22 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to receive full reimbursement for
24 all business-related expenses and costs they incurred in direct consequence of the discharge of their
25 duties and that they did not receive full reimbursement of applicable business-related expenses and
26 costs incurred.

27 24. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff and

1 class members for all hours worked, and that Defendants had the financial ability to pay such
2 compensation, but willfully, knowingly, and intentionally failed to do so.

3 **CLASS ACTION ALLEGATIONS**

4 25. Plaintiff's proposed Class consists of:

5 All persons who worked for Defendants as non-exempt, hourly-paid employees in
6 California, within four years prior to the filing of the initial complaint until the date of
7 trial ("Class").

8 26. Plaintiff's proposed subclass consists of:

9 All persons who worked for Defendants as non-exempt, hourly-paid employees in
10 California and who received at least one wage statement within one year prior to the
11 filing of the initial complaint until the date of trial ("Subclass").

12 27. Members of the Class and Subclass are referred to herein as "Class."

13 28. Plaintiff reserves the right to redefine the Class and to add additional subclasses as
14 appropriate based on further investigation and discovery.

15 29. At all relevant times, Defendants have had a common and consistent policy and practice
16 of failing to pay the proper minimum wage and overtime, reimburse for necessary business
17 expenditures, furnish compliant wage statements, maintain accurate pay records, provide
18 uninterrupted meal periods and timely pay wages in violation of the Labor Code and IWC Wage
19 Orders.

20 30. There is a well-defined community of interest in the litigation and the class members
21 are readily ascertainable:

22 31. **Numerosity:** The members of the Class are sufficiently numerous that joinder of all
23 members is impracticable. The membership of the entire Class is unknown to Plaintiff at this time.
24 However, the Class is estimated to be greater than 50 individuals and the identity of such membership
25 is readily ascertainable by inspection of Defendants' employment records.

26 32. **Commonality:** There are questions of law and fact common to the Class that are
27 answerable on a common basis, and these questions predominate over individual questions. The
28 questions of law and fact common to the Class include, without limitation:

- a. Whether Defendants required Plaintiff and class members to work over 8 hours per day, over 12 hours per day, or over 40 hours per week and failed to pay them all legally required overtime compensation;
- b. Whether Defendants failed to pay Plaintiff and class members at least minimum wages for all hours worked;
- c. Whether Defendants failed to provide Plaintiff and class members with meal periods;
- d. Whether Defendants provided Plaintiff and class members with complete and accurate wage statements as required by California Labor Code section 226 (a);
- e. Whether Defendants failed to pay earned overtime wages, minimum wages, and meal and rest period premiums due to Plaintiff and class members upon their discharge;
- f. Whether Defendants failed to timely pay overtime wages, minimum wages, and meal and rest period premiums to Plaintiff and class members during their employment;
- g. Whether Defendants failed to reimburse Plaintiff and class members for necessary business expenditures, losses incurred by them in direct consequence of the discharge of their duties or obedience to the directions of the employer;
- h. Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and,
- i. The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

33. **Typicality:** Plaintiff's claims are typical of the claims of the Class he seeks to represent. As set forth herein, Defendants' common course of conduct causes Plaintiff and similarly situated persons employed by Defendants the same or similar injuries and damages. Plaintiff's claims are thereby representative of and co-extensive with the claims of the Class.

34. **Adequacy:** Plaintiff will fairly and adequately represent the interests of all members of the Class he seeks to represent. Plaintiff is members of the Class he seeks to represent, does not have

any conflicts of interest with the Class, will prosecute the case vigorously on behalf of the Class, and has already devoted time and resources to the initial investigation of these claims. Plaintiff's attorney is competent and experienced in litigating employment actions, including wage and hour class actions.

35. **Superiority of Class Action:** A class action is superior to other available methods for the fair and efficient adjudication of this controversy. In particular, Plaintiff is informed and believes that some Class Members may be unwilling to bring individual lawsuits for fear of retaliation by Defendants. Because the damages suffered by certain individual members of the Class may be relatively small, the expense and burden of individual litigation make it impracticable for Class Members to pursue their claims separately. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants' illegal, fraudulent and unfair employment practices and policies. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Class action treatment will also avoid inconsistent outcomes because the same issues can be adjudicated in the same manner for all members of the Class.

FIRST CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGE

IN VIOLATION OF LABOR CODE §§ 510 and 1198

(AGAINST ALL DEFENDANTS)

36. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

37. Labor Code § 1198 makes it unlawful to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code § 1198 requires that “the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

38. The applicable IWC Wage Order required Defendants to pay Plaintiff and class members working more than 8 hours in a day or more than 40 hours in a workweek, at the rate of time and one-half for all hours worked in excess of 8 hours in a day or 40 hours in a workweek. The

1 applicable IWC Wage Order further required Defendants to pay Plaintiff and class members working
2 more than 12 hours in a day, overtime compensation at a rate of 2 times their regular rate of pay, and
3 2 times their regular rate of pay for hours worked in excess of 8 hours on the seventh consecutive
4 day of a work in a workweek.

5 39. During Plaintiff's first stint of employment, he worked Monday to Friday, from 6:30
6 a.m. to 3:00 p.m. In 2019, his schedule changed to Monday to Thursday, from 6:30 a.m. to 5:00 p.m.
7 However, Defendants did not compensate him for this overtime work – work in excess of 8 hours per
8 day. Plaintiff remained on this schedule, and was not paid for his overtime hours, for five months.

9 40. Defendants imposed this same policy and practice on Class members, who were made
10 to work more than 8 hours in a day, but the company did not pay them the required overtime premiums
11 for the hours that they worked in excess of 8 hours in a day.

12 41. At all relevant times, Defendants willfully failed to pay all overtime wages owed to
13 Plaintiff and class members. At all relevant times, Plaintiff and class members were not paid overtime
14 premiums for all of the hours they worked in excess of 8 hours in a day, in excess of 12 hours in a
15 day, and/or in excess of 40 hours in a week.

16 42. At all relevant times herein, Defendants had, and continue to have, a company-wide
17 policy of failing to implement any policies to authorize and permit employees to take compliant meal
18 periods and, instead, engaged in a practice of discouraging and impeding employees from taking meal
19 periods by assigning them a heavy workload and understaffing their facilities.

20 43. Additionally, Defendants, on a company-wide basis, failed to schedule meal periods
21 even though they are aware that employees are entitled to such meal periods. As a result of this
22 company-wide understaffing of its facilities and failure to schedule meal periods, Plaintiff and class
23 members were not always permitted and authorized to take uninterrupted 30-minute meal periods
24 during shifts to which they were entitled to receive a meal period. For example, Plaintiff regularly
25 worked through meal periods and had meal periods interrupted by supervisors and by work to meet
26 expected targets.

27 44. At all relevant times, Defendants had no policy for scheduling second meal periods and
28 no practice of permitting Plaintiff and class members to take second 30-minute meal periods. As a

1 result, on days that Plaintiff and class members worked in excess of 10 hours, they were not provided
2 with second 30-minute meal periods.

3 45. Defendants knew or should have known that, as a result of their policies and practices,
4 Plaintiff and class members were performing some of their assigned duties off-the-clock and/or
5 during unpaid meal periods, and were suffered or permitted to perform work for which they were not
6 paid. Because Plaintiff and class members worked shifts in excess of 8 hours a day or more and 40
7 hours a week or more, much of this off-the-clock work qualified for overtime premium pay.
8 Therefore, Plaintiff and class members were not paid overtime wages for all of the overtime hours
9 they actually worked. To the extent Plaintiff and class members worked shifts in excess of 12 hours
10 a day, or in excess of 8 hours on the seventh consecutive day of a work in a workweek, Plaintiff and
11 class members were not paid double time wages for all overtime hours they actually worked.

12 46. Defendants' failure to pay Plaintiff and class members the balance of overtime
13 compensation, as required by California law, violates the provisions of California Labor Code §§ 510
14 and 1198. Pursuant to California Labor Code § 1194, Plaintiff and class members are entitled to
15 recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

16 47. Labor Code §558 (a) requires that any person acting on behalf of an employer who
17 violates, or causes to be violated, overtime rules pay a civil penalty in the amount of \$50 for each
18 underpaid employee for each pay period in which the employee was underpaid in addition to an
19 amount sufficient to recover underpaid wages. Also, Labor Code §558 (a) for each subsequent
20 violation, the person acting on behalf of an employer is liable in the amount of \$100 for each underpaid
21 employee for each pay period for which the employee was underpaid in addition to an amount
22 sufficient to recover the underpaid wages.

23 48. In addition to the above withheld overtime wages, Plaintiff and the Class are entitled
24 to civil penalties based upon Defendants' underpayment of overtime wages. Defendants violated
25 Labor Code §558 on each of the past pay periods within the one-year preceding the filing of this
26 complaint, the first of which Defendants are penalized \$50.00, and the remainder of which Defendants
27 are penalized \$100.00 each, for a total due in Labor Code §558 penalties in an amount to be proven at
28 trial.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS
LABOR CODE §§ 226.7, 512 (a) and 1198
(AGAINST ALL DEFENDANTS)

49. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

50. “An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 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.” Labor Code § 512; IWC Wage Order Nos. 1–2001 to 16–2001, § 11; IWC Wage Order No. 17-2001, § 9; 8 Cal Code Regs §§ 11010-11160, § 11; 8 Cal Code Regs § 11170, § 9.

51. At all relevant times herein, Labor Code §§ 226.7 and 512 (a), 1198 and the applicable IWC Wage Order also require employers to provide a second meal break of not less than 30 minutes if an employee works over 10 hours per day or to pay an employee one additional hour of pay at the employee’s regular rate, except that if the total hours worked is no more than 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.

52. “An employer shall not require an employee to work during a meal ... period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission If an employer fails to provide an employee a meal ... period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal ... period is not

1 provided.” Lab. Code § 226.7 (b) & (c).

2 53. At all relevant times, Plaintiff and the Class regularly worked more than five hours per
3 day, and were thereby entitled to take uninterrupted 30-minute meal periods on each day of work.

4 54. At all relevant times herein, Defendants had, and continue to have, a company-wide
5 policy and/or practice of understaffing their locations while simultaneously assigning demanding
6 workloads, which had the combined effect of preventing Plaintiff and class members from taking all
7 timely, uninterrupted meal periods to which they were entitled. Additionally, Defendants had no
8 policy and/or practice of scheduling meal periods for Plaintiff and class members. As a result of
9 Defendants’ policies and/or practices, Plaintiff and class members had to work through some or all
10 of their meal periods, have their meal periods interrupted to return to work, and/or wait extended
11 periods of time before taking meal periods.

12 55. Defendants did not provide Plaintiff and class members with second 30-minute meal
13 periods on days that they worked in excess of 10 hours in one day. Plaintiff worked 10 or more hour
14 shifts and, at times, up to 12 or more hours in a shift without being permitted or authorized to take a
15 second 30-minute meal period.

16 56. Plaintiff is also informed and believes that Defendants engaged in a systematic,
17 company-wide practice and/or policy of not paying meal period premiums for Plaintiff and class
18 members, regardless of whether they were able to take a compliant meal break, in violation of the
19 applicable IWC Wage Order and Labor Code sections 226.7 and 512 (a). As a result, Defendants
20 failed to provide Plaintiff and class members compliant meal periods in violation of California Labor
21 Code sections 226.7 and 512 and failed to pay the full meal period premiums due.

22 57. As alleged herein, Plaintiff and the Class are not exempt from the meal period
23 requirements of the applicable Code of Regulations and Industrial Welfare Commission Orders.
24 Consequently, Defendants’ conduct violates the applicable IWC Wage Order, and California Labor
25 Code §§ 226.7, 512 (a), and 1198. Plaintiff and class members are therefore entitled to recover from
26 Defendants one additional hour of pay at the employee’s regular rate of compensation for each work
27 day that the meal period was not provided, plus interest thereon and costs of suit in an amount subject
28 to proof at trial.

THIRD CAUSE OF ACTION
FAILURE TO INDEMNIFY FOR NECESSARY EXPENDITURES
IN VIOLATION OF LABOR CODE § 2802
(AGAINST ALL DEFENDANTS)

58. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

59. An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

60. When Class members are interviewed for the job with Defendants, they are informed that they have to supply their own tools to perform the required work. Further, the job offers made to them state that they are required to supply their own tools. And indeed, the highly technical and advanced nature of the work requires a substantial supply of tools. Since being hired, Plaintiff has spent more than \$20,000 on tools to perform his job with Defendants. Plaintiff is informed and believes that other Class members have also incurred thousands of dollars in tool purchases.

61. At all times relevant herein, Class Members have been required by Defendants to purchase tools, and in fact did purchase tools in order to perform their duties.

62. At all times relevant herein, Defendants have had a uniform practice and policy of paying their employees less than twice the minimum wage in contravention of the applicable IWC Wage Orders and California Labor Code §§ 1182, 1194, 1194.2, and 1197.

63. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants have maintained a policy, practice, or a lack of policy, which resulted in their failure to indemnify the Class for the reasonable expenses they incurred in the course of performing their duties. Specifically, Plaintiff is informed and believes and thereon alleges that at all relevant times, Defendants have not reimbursed Class Members for the purchase of their tools.

64. As a result of the foregoing, all members of the Class are entitled to recover all sums incurred by them for the purchase of the tools that were necessary for the performance of their jobs and which they were required to purchase in an amount according to proof at trial.

65. As a result of the foregoing, Class members are further entitled to an award of interest at the same rate as judgments in civil actions, accruing from the date on which they incurred the necessary expenditures or losses and all reasonable costs, including attorney's fees incurred by them for enforcing the rights granted by Labor Code § 2802.

FOURTH CAUSE OF ACTION

**FAILURE TO FURNISH ACCURATE WAGE STATEMENTS
AND FAILURE TO MAINTAIN ACCURATE PAYROLL RECORDS
IN VIOLATION OF LABOR CODE §§ 226 1174 (d), and 1198
(AGAINST ALL DEFENDANTS)**

66. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

67. Pursuant to Labor Code §§ 226 and 1174, employers have a duty to provide their non-exempt employees with accurate itemized statements showing total hours worked, hourly wages, gross wages, total deductions net wages earned and name of the employer. An employer who violates these Code sections is liable to its employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay period, up to a statutory maximum of \$4,000.00.

68. “Every employer shall keep accurate information with respect to each employee including the following: (1) Full name, home address, occupation and social security number ... (3) Meal periods, split shift intervals and total daily hours worked shall also be recorded.” IWC Wage Order 4-2001, section 7 (A) (1) & (3).

69. “Every person employing labor in this state shall: (c) Keep a record showing the names and addresses of all employees employed and the ages of all minors. (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.”

Lab. Code § 1174 (c) & (d).

70. “Any person employing labor who willfully fails to maintain the records required by

1 subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of
2 Section 1174 ... shall be subject to a civil penalty of five hundred dollars (\$500).” Cal. Lab. Code §
3 1174.5.

4 71. “A copy of the statement and the record of the deductions shall be kept on file by the
5 employer for at least three years at the place of employment or at a central location within the State of
6 California.” Cal. Lab. Code § 226 (a).

7 72. Pursuant to Labor Code § 558.1, any employer or other person acting on behalf of an
8 employer, who violates, or causes to be violated, Labor Code section 226, may be held liable as the
9 employer for such violation. The term ‘other person acting on behalf of an employer’ is limited to a
10 natural person who is an owner, director, officer, or managing agent of the employer.

11 73. At all relevant times, Defendants have knowingly and intentionally provided Plaintiff
12 and Subclass members with uniform, incomplete, and inaccurate wage statements.

13 74. Because Defendants failed to document and deducted time worked from Plaintiff's and
14 Subclass members' wage statements and employment records for meal periods they did not actually
15 receive, Defendants unlawfully deducted wages earned and meal period premiums that should have
16 been paid. Thus, Defendants did not furnish wage statements to Plaintiff and Subclass members
17 containing the correct amount of gross wages earned in violation of Labor Code § 226 (a) (1),
18 accurate total hours worked in violation of Labor Code § 226 (a) (2), correct amount of net wages
19 earned in violation of Labor Code § 226 (a) (5), or accurate number of hours worked at each
20 corresponding hourly rate in violation of Labor Code § 226 (a) (9).

21 75. To the extent that Defendants paid any meal break premium and/or rest break premium
22 payments, Defendants failed to identify such payments on Plaintiff's and Subclass members' wage
23 statements and employment records, and Defendants otherwise failed to provide information on the
24 wage statements sufficient to identify how many premium payments were paid during each pay
25 period, the specific dates worked giving rise to the premium payments owed, or to determine whether
26 such premium payments adequately and/or accurately compensated Plaintiff and Subclass members
27 for any and all premiums owed.

28 76. California Labor Code § 1198 provides that the maximum hours of work and the

1 standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the
2 applicable IWC Wage Orders. § 1198 further provides that “the employment of any employees for
3 longer hours than those fixed by the order or under conditions of labor prohibited by the order is
4 unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time
5 records showing when the employee begins and ends each work period and meal period. At all
6 relevant times, Defendants failed, on a company-wide basis, to keep records of meal period start and
7 stop times for Plaintiff and Subclass members in violation of section 1198.

8 77. California Labor Code section 1174 (d) provides that “every person employing labor
9 in this state shall ... keep a record showing the names and addresses of all employees employed and
10 the ages of all minors” and “keep, at a central location in the state or at the plants or establishments
11 at which employees are employed, payroll records showing the hours worked daily by and the wages
12 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
13 employed at the respective plants or establishments...” At all relevant times, and in violation of Labor
14 Code § 1174 (d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and
15 Subclass members showing the daily hours they worked and the wages paid thereto as a result of
16 failing to record the off-the-clock hours that they worked.

17 78. Plaintiff and Subclass members are entitled to recover from Defendants the greater of
18 their actual damages caused by Defendants’ failure to comply with California Labor Code § 226 (a),
19 or an aggregate penalty not exceeding four thousand dollars \$4,000 per employee, in addition to
20 attorneys’ fees and costs.

21 **FIFTH CAUSE OF ACTION**

22 **FAILURE TO TIMELY PAY WAGES**

23 **IN VIOLATION OF LABOR CODE § 204**

24 79. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
25 though fully set forth herein.

26 80. “All wages ... earned by any person in any employment are due and payable twice
27 during each calendar month, on days designated in advance by the employer as the regular paydays
28 ... (d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly,

1 biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following
2 the close of the payroll period.” Labor Code § 204.

3 81. “In addition to, and entirely independent and apart from, any other penalty provided in
4 this article, every person who fails to pay the wages of each employee as provided in Sections ... 204
5 ... shall be subject to a penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for
6 each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional
7 violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
8 amount unlawfully withheld.” Labor Code § 210.

9 82. At all times relevant herein, Defendants engaged in a practice of failing to pay Plaintiff
10 and the Class by the seventh calendar day following the close of the payroll period. Indeed, as
11 discussed above, Plaintiff and the Class are owed wages for unpaid overtime, meal periods and
12 unreimbursed business expenses. At no time during their employment were these outstanding sums
13 ever paid to them. Instead, these outstanding sums continued to accumulate every pay period.
14 Therefore, Plaintiff and the Class were not paid all wages earned by the seventh calendar day following
15 the close of their pay periods.

16 83. As a direct and proximate result of Defendants’ failure to timely pay wages, Plaintiff
17 and the Class are entitled to penalties under Labor Code § 210 in an amount subject to proof at trial.

18 **SIXTH CAUSE OF ACTION**

19 **WILLFUL FAILURE TO PAY WAGES**

20 **IN VIOLATION OF LABOR CODE §§ 201-203**

21 84. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
22 though fully set forth herein.

23 85. “If an employer discharges an employee, the wages earned and unpaid at the time of
24 discharge are due and payable immediately.” Labor Code § 201.

25 86. “If an employee not having a written contract for a definite period quits his or her
26 employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless
27 the employee has given 72 hours previous notice of his or her intention to quit, in which case the
28 employee is entitled to his or her wages at the time of quitting.” Labor Code § 202.

1 87. “If an employer willfully fails to pay any wages of an employee who is discharged or
2 who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same
3 rate until paid or until an action therefor is commenced.” Labor Code § 203.

4 88. Plaintiff and the Class were not exempt from the requirements of Labor Code §§ 201-
5 203.

6 89. At no time since Plaintiff's or the Class's separation of employment did Defendants pay
7 them wait-time penalties as required by Labor Code § 203.

8 90. As a direct and proximate result of Defendants' willful failure to pay Plaintiff's and the
9 Class's wages upon their separation of employment, Plaintiff and the Class incurred wait-time
10 penalties in an amount equal to their daily rate of pay over the period that the wages were not paid in
11 an amount subject to proof at trial.

12 **SEVENTH CAUSE OF ACTION**
13 **CIVIL PENALTIES IN VIOLATION OF**
14 **LABOR CODE § 2699, ET SEQ.**
15 **(AGAINST ALL DEFENDANTS)**

16 91. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
17 though fully set forth herein.

18 92. Under Labor Code § 2698, et seq., Plaintiff, as a aggrieved employee, may bring an
19 action against defendants, on behalf of himself and other current or former employees, seeking civil
20 penalties for defendants' violations of the California Labor Code.

21 93. Plaintiff was a aggrieved employee within the meaning of Labor Code §2698, et seq.
22 by virtue of the numerous Labor Code violations he was subjected to as plead herein.

23 94. Defendants also subjected the aggrieved employees on whose behalf Plaintiff brings
24 this enforcement action to all of the Labor Code violations plead herein, including failing to reimburse
25 for necessary business expenditures in violation of Labor Code § 2802, failing to pay overtime in
26 violation Labor Code §§ 510 and 1198, failing to furnish compliant wage statements and maintain
27 accurate pay records in violation of § 226, 1174 (d), and 1198, failing to provide meal periods in
28 violation of §§ 226.7, 512 (a), and 1198, failure to timely pay wages in violation of Labor Code § 204

1 and willful failure to pay wages in violation of Labor Code § 201-203.

2 95. On April 28, 2022, Plaintiff provided written notice by online filing with the Labor and
3 Workforce Development Agency and by certified mail to Defendants of the specific provisions of the
4 Labor Code alleged to have been violated, including the facts and theories to support the alleged
5 violation, as required by Labor Code § 2699.3 (a) (1) (A).

6 96. As of the filing of this Complaint, Plaintiff has received no notice from the Labor and
7 Workforce Development Agency of its intent to pursue an action against Defendants.

8 97. As a direct and proximate result of Defendants' California Labor Code violations as set
9 forth herein, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per pay period
10 for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent
11 violation, pursuant to Labor Code § 2699 (f), for those Labor Code sections not expressly providing
12 for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
13 provide for a penalty.

14 98. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the
15 recovered civil penalties.

16 **EIGHTH CAUSE OF ACTION**

17 **UNFAIR COMPETITION IN VIOLATION OF**

18 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**

19 **(AGAINST ALL DEFENDANTS)**

20 99. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
21 though fully set forth herein.

22 100. Defendants are a "person" as defined by California Business & Professions Code
23 sections 17201.

24 101. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful
25 and harmful to Plaintiff, the Class, aggrieved employees and to the general public. Plaintiff and the
26 Class have suffered injury in fact and have lost money as a result of Defendants' unlawful business
27 practices. Plaintiff and the Class seek to enforce important rights affecting the public interest within
28 the meaning of Code of Civil Procedure section 1021.5.

102. A violation of California Business & Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law.

103. The employment practices engaged in by Defendant as plead herein, including violations of the Labor Code sections, Code of Regulations and Wage Orders, constitute unfair business practices in violation of Business & Professions Code §§17200, et seq.

104. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff, the Class and members of the public.

105. Pursuant to California Business & Professions Code §§ 17200, et seq. Plaintiff and the Class are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this Complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff, the Class and aggrieved employees; and an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

PRAYER FOR RELIEF

Plaintiff and the Class pray for relief and judgment against Defendants as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of \$25,000, exclusive of interest and costs.

Class Certification

2. That this case be certified as a class action;

3. That Plaintiff be appointed as the representatives of the Class and Subclass;

4. That counsel for Plaintiff be appointed as class counsel.

As to the First Cause of Action

(Unpaid Overtime)

5. That the Court adjudge, declare and decree that Defendants violated Labor Code §§ 510 and 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to pay overtime wages to Plaintiff and class members;

6. For payment of unpaid overtime wages in an amount subject to proof;

7. For prejudgment interest at the legal rate from the date the obligation became due

1 through the date of judgment in this matter;

2 8. For all reasonable costs and attorney's fees incurred by Plaintiff's and the Class's
3 enforcement of the rights granted by Labor Code §§ 510 and 1198 pursuant to Labor Code § 1194 (a);
4 and

5 9. For such other relief that the Court deems just and appropriate.

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

7 **(Failure to Provide Meal Periods)**

8 10. That the Court declare, adjudge, and decree that Defendants violated California Labor
9 Code §§ 226.7, 512 (a), 1198, applicable IWC Wage Orders and Codes of Regulation by willfully
10 failing to provide all meal periods to Plaintiff and class members;

11 11. That the Court make an award to the Plaintiff and class members of one hour of pay at
12 each employee's regular rate of pay for each workday that a meal period was not provided;

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

14 13. For premiums pursuant to California Labor Code section 226.7 (b);

15 14. For pre-judgment interest on any unpaid meal period premiums from the date such
16 amounts were due, or as otherwise provided by law;

17 15. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or
18 as otherwise provided by law; and

19 16. For such other relief that the Court deems just and appropriate.

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

21 **(Unreimbursed Business Expenses)**

22 17. That the Court adjudge, declare and decree that Defendants violated Labor Code § 2802
23 by willfully failing to reimburse business expenses incurred by Plaintiff and the Class;

24 18. For unreimbursed business expenses and for all actual, consequential, and incidental
25 losses and damages, according to proof;

26 19. For interest at the same rate as judgments in civil actions, accruing from the date on
27 which Plaintiff and the Class incurred the necessary expenditures or loses pursuant to Labor Code §
28 2802;

1 20. For all reasonable costs and attorney's fees incurred by Plaintiff's and the Class's
2 enforcement of the rights granted by Labor Code § 2802 pursuant to Labor Code § 2802 (c); and

3 21. For such other relief that the Court deems just and appropriate.

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

5 **(Noncompliant Wage Statements and Payroll Records)**

6 22. That the Court adjudge, declare and decree that Defendants violated Labor Code §§
7 226 and 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to furnished
8 compliant, accurate itemized wage statements to Plaintiff and class members and for failure to keep
9 accurate payroll records;

10 23. For consequential and incidental losses and damages according to proof;

11 24. For injunctive relief pursuant to Labor Code § 226 (h);

12 25. For statutory penalties pursuant to Labor Code § 226 (e);

13 26. For all reasonable costs and attorney's fees incurred by Plaintiff's and the Class's
14 enforcement of the rights granted by Labor Code §§ 226 pursuant to Labor Code § 226 (e) (1); and

15 27. For such other relief that the Court deems just and appropriate.

16 **As to the Fifth Cause of Action**

17 **(Failure to Timely Pay Wages)**

18 28. That the Court declare, adjudge, and decree that Defendants violated California Labor
19 Code § 204, applicable IWC Wage Orders and Codes of Regulation by willfully failing to timely pay
20 wages to Plaintiff and class members;

21 29. For penalties pursuant to Labor Code § 210, plus 25 percent of amounts unlawfully
22 withheld from Plaintiff and class members;

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

24 31. For pre-judgment interest on any unpaid wages from the date such amounts were due,
25 or as otherwise provided by law;

26 32. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or
27 as otherwise provided by law; and

28 33. For such other relief that the Court deems just and appropriate.

1 **As to the Sixth Cause of Action**

2 **(Willful Failure to Pay Wages)**

3 34. That the Court declare, adjudge, and decree that Defendants violated California Labor
4 Code § 201-203, applicable IWC Wage Orders and Codes of Regulation by willfully failing to pay
5 minimum wages, overtime wages, and meal and rest premiums owed to Plaintiff and class members
6 either upon discharge or within 72 hours of their resignation;

7 35. For wait time penalties pursuant to Labor Code § 203;

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

9 37. For pre-judgment interest on any unpaid wages from the date such amounts were due,
10 or as otherwise provided by law;

11 38. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or
12 as otherwise provided by law; and

13 39. For such other relief that the Court deems just and appropriate.

14 **As to the Seventh Cause of Action**

15 **(Civil Penalties under the PAGA)**

16 40. That the Court declare, adjudge, and decree that Defendants violated all California
17 Labor Code sections plead herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174,
18 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

19 41. For civil penalties pursuant to 210, 226.3, 256, 558, 1174.5, 1197.1, 2699 (a) and/or
20 2699 (a), (f) and (g), for violations of all California Labor Code sections plead herein, including Labor
21 Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

22 42. For attorneys' fees and costs pursuant to California Labor Code § 2699 (g) (1), and any
23 and all other relevant statutes, for Defendants' violations of all California Labor Code sections plead
24 herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1,
25 1198 and 2802;

26 43. For pre-judgment and post-judgment interest as provided by law; and

27 44. For such other and further relief as the Court deems just and appropriate.
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