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and on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

MIGUEL RODRIGUEZ MONTENEGRO,
individually, and on behalf of others similarly
situated,

Plaintiff,

vs.

KOKO ENTERPRISE, INC., a corporation;
and DOES 1 through 50, inclusive,

Defendants.

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

07/28/2022 at 12:03:05 PM

By: Xian-xil Bowie,
Deputy Clerk

CASE NO.: **22CV015217**

COMPLAINT

CLASS ACTION:

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Periods
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay All Wages Due to Discharged and Quitting Employees
6. Failure to Maintain Required Records
7. Failure to Furnish Accurate Itemized Wage Statements
8. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
9. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION:

10. Penalties under the Labor Code Private Attorneys General Act, as Representative Action

DEMAND FOR JURY TRIAL

1 PLAINTIFF MIGUEL RODRIGUEZ MONTENEGRO (“PLAINTIFF”), individually and
2 on behalf of all others similarly situated, demanding a jury trial, hereby alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. The Superior Court of the State of California has jurisdiction in this matter because
5 PLAINTIFF is a resident of the State of California and DEFENDANTS KOKO ENTERPRISE,
6 INC., and DOES 1 through 50, inclusive (collectively, “DEFENDANTS”) are citizens and
7 residents of, and/or regularly conduct business in the State of California. Further, no federal
8 question is at issue because the claims are based solely on California law.

9 2. Venue is proper in this judicial district and the County of Alameda, California
10 because PLAINTIFF and other CLASS MEMBERS performed work for DEFENDANTS in the
11 County of Alameda and many of DEFENDANTS’ unlawful actions and omissions, as set forth
12 herein, occurred in the County of Alameda.

13 **PARTIES**

14 3. PLAINTIFF is a resident of the State of California. At times material to this
15 complaint, PLAINTIFF was employed by DEFENDANTS as a non-exempt employee within the
16 State of California.

17 4. PLAINTIFF, on behalf of himself and other similarly situated current and former
18 non-exempt employees of DEFENDANTS in the State of California at any time during the four
19 years preceding the filing of this action, and continuing while this action is pending, brings this
20 class action to recover, among other things, wages and penalties from unpaid wages earned and
21 due, including but not limited to unpaid minimum wages, unpaid and illegally calculated overtime
22 compensation, unpaid and illegally calculated sick time pay, illegal meal and rest period policies
23 and unpaid break premiums, failure to timely pay all wages due to discharged and quitting
24 employees, failure to indemnify employees for necessary expenditures and/or losses incurred in
25 discharging their duties, failure to provide accurate itemized wage statements, failure to maintain
26 required records, and interest, attorneys’ fees, costs, and expenses.

27 5. PLAINTIFF brings this action on behalf of himself and the following similarly
28 situated class of individuals (“CLASS MEMBERS”): all current and former non-exempt

1 employees of DEFENDANTS in the State of California at any time within the period
2 beginning four (4) years prior to the filing of this action and ending at the time this action
3 settles or proceeds to final judgment (the "CLASS PERIOD"). PLAINTIFF reserves the right
4 to name additional class representatives.

5 6. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT
6 KOKO ENTERPRISE, INC. is, and at all times relevant hereto was, a corporation authorized to
7 conduct business in the State of California, and does conduct business in the State of California.
8 Specifically, upon information and belief, DEFENDANT KOKO ENTERPRISE, INC. maintains
9 offices and conducts business in the County of Alameda, State of California.

10 7. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
11 PLAINTIFF at this time, and PLAINTIFF therefore sues such Defendants under fictitious names.
12 PLAINTIFF is informed and believes, and thereon alleges, that each Defendant designated as a
13 DOE is in some manner highly responsible for the occurrences alleged herein, and that
14 PLAINTIFF and other CLASS MEMBERS' injuries and damages, as alleged herein, were
15 proximately caused by the conduct of such DOE Defendants. PLAINTIFF will seek leave of the
16 court to amend this complaint to allege the true names and capacities of such DOE Defendants
17 when ascertained.

18 8. At all relevant times herein, DEFENDANTS were the joint employers of
19 PLAINTIFF and other CLASS MEMBERS. PLAINTIFF is informed and believes, and thereon
20 alleges, that at all times material to this complaint DEFENDANTS were the alter egos, divisions,
21 affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities,
22 co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or
23 ostensible, of each other. Each defendant was completely dominated by his, her, or its co-
24 defendant, and each was the alter ego of the other.

25 9. At all relevant times herein, PLAINTIFF and other CLASS MEMBERS were
26 employed by DEFENDANTS under employment agreements that were partly written, partly oral,
27 and partly implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and
28 each of them, acted pursuant to, and in furtherance of, their policies and practices of not paying

1 PLAINTIFF and other CLASS MEMBERS all wages earned and due, through methods and
2 schemes which include, but are not limited to, failing to pay overtime premiums; failing to
3 provide rest and meal periods and required associated premium payments; failing to properly
4 maintain required records; failing to provide accurate itemized statements for each pay period;
5 failing to timely pay wages during employment; failing to properly compensate PLAINTIFF and
6 other CLASS MEMBERS for necessary expenditures; failing to properly pay sick time pay; and
7 requiring, permitting or suffering the employees to work off the clock, in violation of the
8 California Labor Code (“Labor Code”) and the applicable Industrial Welfare Commission
9 (“IWC”) Wage Order.

10 10. PLAINTIFF is informed and believes, and thereon alleges, that each and every one
11 of the acts and omissions alleged herein were performed by, and/or attributable to, all
12 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
13 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
14 and scope of said agency, employment and/or direction and control.

15 11. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting
16 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any
17 provision regulating minimum wages or hours and days of work in any order of the Industrial
18 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

19 **CLASS ACTION DESIGNATION**

20 12. This action is appropriately suited for a Class Action because:

21 a. The potential class is a significant number. Joinder of all current and
22 former employees individually would be impractical.

23 b. This action involves common questions of law and fact to the potential
24 class because the action focuses on DEFENDANTS’ systematic course of illegal payroll practices
25 and policies, which was applied to all non-exempt employees in violation of the Labor Code, the
26 applicable IWC wage order, and the Business and Professions Code which prohibits unfair
27 business practices arising from such violations.

1 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages
2 earned and due, interest, penalties, expenses, and costs of suit.

3 **SECOND CAUSE OF ACTION**

4 **Failure to Provide Required Rest Periods**

5 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order Nos. 1-2001, § 12 and 16-2001, § 12]**

6 **(Against all DEFENDANTS)**

7 20. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
8 allegations in the foregoing paragraphs.

9 21. At all times relevant herein, as part of DEFENDANTS' illegal payroll policies and
10 practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS
11 failed to provide rest periods to PLAINTIFF and CLASS MEMBERS as required under
12 California Labor Code §§ 226.7 and 512, and IWC Wage Order Nos. 1-2001, § 12 and 16-2001, §
13 12.

14 22. DEFENDANTS further violated California Labor Code § 226.7 and IWC Wage
15 Order Nos. 1-2001, § 12 and 16-2001, § 12, by failing to pay PLAINTIFF and CLASS
16 MEMBERS who were not provided with a rest period, in accordance with the applicable wage
17 order, one additional hour of compensation at each employee's regular rate of pay for each
18 workday that a rest period was not provided.

19 23. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS
20 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages
21 earned and due, interest, penalties, expenses, and costs of suit.

22 **THIRD CAUSE OF ACTION**

23 **Failure to Pay Overtime Wages**

24 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order Nos. 1-2001, § 3 and 16-2001, § 3]**

25 **(Against all DEFENDANTS)**

26 24. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
27 allegations in the foregoing paragraphs.

28 25. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Order Nos. 1-

1 2001, § 3 and 16-2001, § 3, DEFENDANTS are required to compensate PLAINTIFF and CLASS
2 MEMBERS for all overtime, which is calculated at one and one-half (1 ½) times the regular rate
3 of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week,
4 and for the first eight (8) hours on the seventh consecutive workday, with double time for all
5 hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of
6 eight (8) hours on the seventh consecutive day of work in any workweek.

7 26. PLAINTIFF and CLASS MEMBERS are current and former non-exempt
8 employees entitled to the protections of California Labor Code §§ 510, 1194, and IWC Wage
9 Order Nos. 1-2001 and 16-2001, § 3. During the CLASS PERIOD, DEFENDANTS failed to
10 compensate PLAINTIFF and CLASS MEMBERS for all overtime hours worked as required
11 under the foregoing provisions of the California Labor Code and IWC Wage Order by, among
12 other things: failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as
13 provided by California Labor Code §§ 510, 1194, and IWC Wage Order Nos. 1-2001, § 3 and 16-
14 2001, § 3; requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the
15 clock; requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work through
16 meal and rest breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS
17 MEMBERS worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS'
18 records; failing to provide accurate itemized wage statements to PLAINTIFF for each pay period;
19 failing to properly pay employees reporting time on occasions when they were required to report
20 for work, and did report, but were not put to work or were furnished less than half of their usual
21 or scheduled day's work; failing to include all forms of remuneration when calculating the regular
22 rate of pay for purposes of paying overtime; and other methods to be discovered.

23 27. In violation of California law, DEFENDANTS have knowingly and willfully
24 refused to perform their obligations to compensate PLAINTIFF and CLASS MEMBERS for all
25 wages earned and all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS
26 have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such
27 wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
28 DEFENDANTS to fully perform their obligations under state law, all to their respective damages

1 in amounts according to proof at time of trial, and within the jurisdiction of this Court.

2 28. DEFENDANTS' conduct described herein violates California Labor Code §§ 510,
3 1194, 1198 and IWC Wage Order Nos. 1-2001, § 3 and 16-2001, § 3. Therefore, pursuant to
4 California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions
5 under the California Labor Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS
6 are entitled to recover the unpaid balance of wages owed to them by DEFENDANTS, plus
7 interest, penalties, attorneys' fees, expenses, and costs of suit.

8 **FOURTH CAUSE OF ACTION**

9 **Failure to Pay Minimum Wages**

10 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order Nos. 1-2001, § 4 and 16-2001, § 4]**

11 **(Against all DEFENDANTS)**

12 29. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
13 allegations in the foregoing paragraphs.

14 30. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Order Nos. 1-
15 2001, § 4 and 16-2001, § 4, payment to an employee of less than the applicable minimum wage
16 for all hours worked in a payroll period is unlawful.

17 31. During the CLASS PERIOD, DEFENDANTS failed to pay PLAINTIFF and
18 CLASS MEMBERS minimum wages for all hours worked by, among other things: requiring,
19 permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring,
20 permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest
21 breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS
22 worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to
23 provide accurate itemized wage statements to PLAINTIFF and CLASS MEMBERS for each pay
24 period; failing to properly pay employees reporting time on occasions when they were required to
25 report for work, and did report, but were not put to work or were furnished less than half of their
26 usual or scheduled day's work; and other methods to be discovered.

27 32. DEFENDANTS' conduct described herein violates California Labor Code §§
28 1194, 1197, and IWC Wage Order Nos. 1-2001, § 4 and 16-2001, § 4. As a proximate result of

1 the aforementioned violations, PLAINTIFF and CLASS MEMBERS have been damaged in an
2 amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203,
3 226, 558, 1194, 1197.1, and other applicable provisions under the Labor Code and IWC Wage
4 Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover the unpaid balance of wages
5 owed to them by DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of
6 suit.

7 **FIFTH CAUSE OF ACTION**

8 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

9 **[Cal. Labor Code §§ 201, 202, 203]**

10 **(Against all DEFENDANTS)**

11 33. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
12 allegations in the foregoing paragraphs.

13 34. Pursuant to California Labor Code § 201, 202, and 203, DEFENDANTS are
14 required to pay all earned and unpaid wages to an employee who is discharged. California Labor
15 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
16 and unpaid at the time of discharge are due and payable immediately.

17 35. Furthermore, pursuant to California Labor Code § 202, DEFENDANTS are
18 required to pay all accrued wages due to an employee no later than 72 hours after the employee
19 quits his or her employment, unless the employee provided 72 hours previous notice of his or her
20 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

21 36. California Labor Code § 203 provides that if an employer willfully fails to pay, in
22 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
23 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
24 compensation to the employee at the same rate for up to 30 workdays.

25 37. During the CLASS PERIOD, DEFENDANTS have willfully failed to pay accrued
26 wages and other compensation to PLAINTIFF and CLASS MEMBERS in accordance with
27 California Labor Code §§ 201 and 202.

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38. As a result, PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including the waiting time penalties provided in California Labor Code § 203, together with interest thereon, as well as other available remedies.

39. As a proximate result of DEFENDANTS' unlawful actions and omissions, PLAINTIFF and CLASS MEMBERS have been deprived of compensation in an amount according to proof at the time of trial, but in excess of the jurisdiction of this Court, and are entitled to recovery of such amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code §§ 1194 and 2699.

SIXTH CAUSE OF ACTION

Failure to Maintain Required Records

[Cal. Labor Code §§ 226; IWC Wage Order Nos. 1-2001, § 7 and 16-2001, § 7]

(Against all DEFENDANTS)

40. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

41. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies and practices to deprive PLAINTIFF and CLASS MEMBERS of all wages earned and due, DEFENDANTS knowingly and intentionally failed to maintain records as required under California Labor Code §§ 226, 1174, and IWC Wage Order Nos. 1-2001, § 7 and 16-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

42. As a proximate result of DEFENDANTS' unlawful actions and omissions, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at trial, and are entitled to all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as well as other available remedies.

1 **SEVENTH CAUSE OF ACTION**

2 **Failure to Furnish Accurate Itemized Wage Statements**

3 **[Cal. Labor Code §§ 226, 1174; IWC Wage Order Nos. 1-2001, § 7 and 16-2001, § 7]**

4 **(Against all DEFENDANTS)**

5 43. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
6 allegations in the foregoing paragraphs.

7 44. During the CLASS PERIOD, DEFENDANTS routinely failed to provide
8 PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in
9 writing showing each employee's gross wages earned, total hours worked, all deductions made,
10 net wages earned, the name and address of the legal entity or entities employing PLAINTIFF and
11 CLASS MEMBERS, and all applicable hourly rates in effect during each pay period and the
12 corresponding number of hours worked at each hourly rate, in violation of California Labor Code
13 § 226 and IWC Wage Order Nos. 1-2001, § 7 and 16-2001, § 7.

14 45. During the CLASS PERIOD, DEFENDANTS knowingly and intentionally failed
15 to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage
16 statements in accordance with California Labor Code § 226(a).

17 46. As a proximate result of DEFENDANTS' unlawful actions and omissions,
18 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
19 trial, and seek all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and
20 CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to
21 civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of
22 costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in
23 California Labor Code § 226(e), as well as other available remedies.

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1 **EIGHTH CAUSE OF ACTION**

2 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of**
3 **Duties**

4 **[Cal. Labor Code § 2802]**

5 **(Against all DEFENDANTS)**

6 47. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
7 allegations in the foregoing paragraphs.

8 48. California Labor Code § 2802(a) requires an employer to indemnify an employee
9 for all necessary expenditures or losses incurred by the employee in direct consequence of the
10 discharge of his or her duties, or of his or her obedience to the directions of the employer.

11 49. During the CLASS PERIOD, DEFENDANTS knowingly and willfully failed to
12 indemnify PLAINTIFF and CLASS MEMBERS for all business expenses and/or losses incurred
13 in direct consequence of the discharge of their duties while working under the direction of
14 DEFENDANTS, including but not limited to expenses associated with tools, safety equipment,
15 the use of personal cell phones for work-related purposes, gas/mileage associated with travel for
16 work-related purposes, and other employment-related expenses, in violation of California Labor
17 Code § 2802.

18 50. As a proximate result of DEFENDANTS' unlawful actions and omissions,
19 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
20 trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to
21 California Labor Code § 2802(b). Additionally, PLAINTIFF and CLASS MEMBERS are
22 entitled to all available statutory penalties and an award of costs, expenses, and reasonable
23 attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other
24 available remedies.

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1 **NINTH CAUSE OF ACTION**

2 **Unfair and Unlawful Business Practices**

3 **[Cal. Bus. & Prof. Code §§ 17200 et. seq.]**

4 **(Against all DEFENDANTS)**

5 51. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
6 allegations in the foregoing paragraphs.

7 52. Each and every one of DEFENDANTS' acts and omissions in violation of the
8 California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but
9 not limited to DEFENDANTS' failure and refusal to provide required meal periods,
10 DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and
11 refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum
12 wages, DEFENDANTS' failure and refusal to pay all wages due to discharged or quitting
13 employees, DEFENDANTS' failure and refusal to furnish accurate itemized wage statements;
14 DEFENDANTS' failure and refusal to maintain required records, DEFENDANTS' failure to
15 properly pay required sick time, DEFENDANTS' failure and refusal to indemnify PLAINTIFF
16 and CLASS MEMBERS for necessary expenditures and/or losses incurring in discharging their
17 duties, constitutes an unfair and unlawful business practice under California Business and
18 Professions Code § 17200 et seq.

19 53. DEFENDANTS' violations of California wage and hour laws constitute a business
20 practice because DEFENDANTS' aforementioned acts and omissions were done repeatedly over
21 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and
22 CLASS MEMBERS.

23 54. DEFENDANTS have avoided payment of wages, overtime wages, meal periods,
24 rest periods, and other benefits as required by the California Labor Code, the California Code of
25 Regulations, and the applicable IWC Wage Order. Further, DEFENDANTS have failed to
26 record, report, and pay the correct sums of assessment to the state authorities under the California
27 Labor Code and other applicable regulations.

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55. As a result of DEFENDANTS' unfair and unlawful business practices, DEFENDANTS have reaped unfair and illegal profits during the CLASS PERIOD at the expense of PLAINTIFF, CLASS MEMBERS, and members of the public. DEFENDANTS should be made to disgorge their ill-gotten gains and to restore them to PLAINTIFF and CLASS MEMBERS.

56. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFF and CLASS MEMBERS to seek preliminary and permanent injunctive relief, including but not limited to orders that DEFENDANTS account for, disgorge, and restore to PLAINTIFF and CLASS MEMBERS the wages and other compensation unlawfully withheld from them. PLAINTIFF and CLASS MEMBERS are entitled to restitution of all monies to be disgorged from DEFENDANTS in an amount according to proof at the time of trial, but in excess of the jurisdiction of this Court.

TENTH CAUSE OF ACTION

Representative Action for Civil Penalties

[Cal. Labor Code §§ 2698–2699.5]

(Against All DEFENDANTS)

57. PLAINTIFF incorporates herein by specific reference as though fully set forth the allegations in all preceding paragraphs, with exception of the allegations in paragraph 14 and the subparagraphs thereto.

58. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other current and former employees of DEFENDANTS pursuant to the procedures specified in California Labor Code § 2699.3, because PLAINTIFF and CLASS MEMBERS were employed by DEFENDANTS and the alleged violations of the California Labor Code were committed against PLAINTIFF and CLASS MEMBERS.

59. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698–2699.5, PLAINTIFF and CLASS MEMBERS seeks to recover civil penalties, including but not limited to penalties under California Labor Code §§ 2699, 210,

1 226.3, 558, 1174.5, 1197.1, and IWC Wage Order Nos. 1-2001, § 20, and 16-2001, § 20 from
2 DEFENDANTS in a representative action for the violations set forth above, including but not
3 limited to violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174,
4 1194, 1197, 1198, and 2802. PLAINTIFF and CLASS MEMBERS are also entitled to an award
5 of reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g)(1).

6 60. Pursuant to California Labor Code §§ 2699.3, PLAINTIFF gave written notice on
7 April 15, 2022, by online filing to the California Labor and Workforce Development Agency
8 ("LWDA") and by certified mail to DEFENDANTS of the specific provisions of the California
9 Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories
10 to support the alleged violations. More than sixty-five (65) days have passed and the LWDA has
11 not provided notice to PLAINTIFF that it intends to investigate the alleged violations.

12 61. Therefore, PLAINTIFF has complied with all of the requirements set forth in
13 California Labor Code § 2699.3 to commence a representative action under PAGA

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly
16 situated, respectfully prays for relief against DEFENDANTS and DOES 1 through 50, inclusive,
17 and each of them, as follows:

- 18 1. For compensatory damages in an amount to be ascertained at trial;
- 19 2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well
20 as disgorged profits from DEFENDANTS' unfair and unlawful business practices;
- 21 3. For meal and rest period compensation pursuant to California Labor Code § 226.7
22 and IWC Wage Order Nos. 1-2001 and 16-2001;
- 23 4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
- 24 5. For preliminary and permanent injunctive relief enjoining DEFENDANTS from
25 violating the relevant provisions of the California Labor Code and the IWC Wage Orders, and
26 from engaging in the unlawful business practices complained of herein;
- 27 6. For waiting time penalties pursuant to California Labor Code § 203;

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1 7. For statutory and civil penalties according to proof, including but not limited to all
2 penalties authorized by the California Labor Code §§ 226(e) and §§ 2698–2699.5;

3 8. For interest on the unpaid wages at 10% per annum pursuant to California Labor
4 Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable
5 provision providing for pre-judgment interest;

6 9. For reasonable attorneys’ fees and costs pursuant to California Labor Code
7 §§ 1194, 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions
8 providing for attorneys’ fees and costs;

9 10. For declaratory relief;

10 11. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth,
11 Seventh, Eighth, and Ninth Causes of Action as a class action;

12 12. For an order appointing PLAINTIFF as class representative, and PLAINTIFF’s
13 counsel as class counsel; and

14 13. For such further relief that the Court may deem just and proper.

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16 DATED: July 28, 2022

Respectfully submitted,

MATERN LAW GROUP, PC

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19 By: _____



20 Matthew J. Matern
21 Tagore O. Subramaniam
22 Sean P. Hardy
23 Attorneys for Plaintiff MIGUEL
24 RODRIGUEZ MONTENEGRO, individually,
25 and on behalf of all others similarly situated
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DATED: July 28, 2022

MATERN LAW GROUP, PC

True Love !!

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