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Superior Court of California
County of Mendocino

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Deputy Clerk

Attorneys for Plaintiff MARIO ALEJANDRO GARCIA FLORES, an individual and on behalf
of all similarly situated employees,

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MENDOCINO

MARIO ALEJANDRO GARCIA
FLORES, an individual, and on behalf of
all similarly situated employees,

Plaintiff,

v.

NOBLE VINEYARD MANAGEMENT,
INC., a California Corporation; Tyler
Rodrigue, an individual, Dave Downey, an
individual and DOES 1- 50, Inclusive,

Defendants.

Case No.: 22CV00836

COMPLAINT

1. Violation of Labor Code §§ 226.7, 512 (Meal Period Violations);
2. Violation of Labor Code §§ 226.7;
3. Violation of Labor Code §§ 204, 510, 1194 (Failure to Pay All Wages, Including Minimum Wage and Overtime);
4. Violation of Labor Code §§ 201, 202, 203 (Failure to Pay Wages Due at Separation of Employment);
5. Violation of Labor Code §§ 226, subd. (a) and (e) (Failure to Issue Accurate Itemized Wage Statements);
6. Violation of Labor Code §2802 (Failure to Reimburse Business Expenses); and
7. Violation of Bus. & Prof. Code §§ 17200 et seq. (Unfair Business Practices).

Unlimited Civil Case

DEMAND FOR JURY TRIAL

1 Plaintiff MARIO ALEJANDRO GARCIA FLORES on behalf of himself and all others
2 similarly situated, complains and alleges as follows:

3 INTRODUCTION

4 1. This case arises out of the failure to pay all compensation, failure to provide meal
5 break, failure to provide rest breaks, failure to pay all wages, failure to pay minimum and/or
6 overtime wages, failure to pay wages upon ending of employment, failure to provide accurate
7 itemized wage statements, failure to reimburse for necessary expenditures to certain California
8 employees of Defendants NOBLE VINEYARD MANAGEMENT, INC. a California
9 Corporation, Tyler Rodrigue, an individual, Dave Downey, an individual (“Defendants” or
10 “Defendant”), and DOES 1-50, inclusive. The proposed Plaintiff Class (“Plaintiff Class”), as
11 defined herein, consists of persons working in non-exempt hourly positions.

12 2. The term Plaintiff refers to MARIO ALEJANDRO GARCIA FLORES, the named
13 Plaintiff Class representative; the term “Plaintiff Class” includes Plaintiff and Plaintiff Class
14 members who were not provided meal break, provided rest breaks, paid all wages, minimum
15 and/or overtime wages, were not reimbursed for necessary job-related expenses due to
16 Defendant’s unlawful business policies and/or practices; and is further defined herein.

17 3. Plaintiff seeks compensation for work performed and monies due himself and the
18 Plaintiff Class during the “Class Period,” which is defined as four (4) years prior to the filing of
19 this action through the trial date, based upon information and belief that the Defendant is
20 continuing, and will continue, its unlawful practices as described herein.

21 4. At all relevant times herein, Defendants have consistently maintained and enforced against
22 Plaintiff Class the following unlawful practices and policies: a) failing to provide meal breaks; b)
23 failing to provide rest breaks; c) willfully refusing to pay Plaintiff and Plaintiff Class for all hours
24 worked, including both minimum and overtime wages; d) willfully refusing to reimburse Plaintiff
25 and Plaintiff Class for necessary job-related expenditures; e) willfully refusing to pay Plaintiff and
26 Plaintiff Class all wages upon end of employment; f) willfully refusing to furnish to Plaintiff and
27 Plaintiff Class accurate itemized wage statements upon payment of wages.
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6. The California Superior Court has jurisdiction in the matter because the individual claims are under the seventy-five thousand-dollar (\$75,000.00) individual jurisdictional threshold and the five million-dollar (\$5,000,000) aggregate jurisdictional threshold for Federal Court and, upon information and belief, Plaintiff and Defendant are residents of and/or domiciled in the State of California. Further, there is no federal question at issue as the issues herein is based solely on California Statutes and law including the California Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil Procedure, Rule of Court, and Business and Professions Code.

A. The Plaintiff

B. The Defendant

8. Plaintiff is informed and believes, and based thereon alleges that, Defendants are an agriculture company in Mendocino County and is and/or was the employer of the Plaintiff and

1 Plaintiff Class during the Class Period at Defendant's location at 445 N. State Street Ukiah, CA
2 95482. During the Class Period, Defendant employed Plaintiff and similarly situated persons and
3 failed to pay Plaintiff and Plaintiff Class for all hours worked as a result of working off the clock,
4 failing to pay minimum and overtime wages, failed to reimburse employees for necessary business
5 expenditures, failure to pay all required meal and rest period premiums, failed to pay all wages
6 upon end of employment, and failed to provide accurate and itemized wage statements. On
7 information and belief, and based thereon alleges that Defendant is conducting business in good
8 standing in California.

9 9. Plaintiff is informed and believes that Defendant TYLER RODRIGUE ("RODRIGUE")
10 is an individual over the age of 18 years, and based on information and belief, was residing at all
11 times mentioned herein in the County of Mendocino, State of California.

12 10. Plaintiff is informed and believes that Defendant DAVE DOWNEY ("DOWNEY") is an
13 individual over the age of 18 years, and based on information and belief, was residing at all times
14 mentioned herein in the County of Mendocino, State of California.

15 11. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
16 herein, Defendants, and each of them, exercised control over Plaintiff and Plaintiff Class wages,
17 hours, or working conditions.

18 12. The true names and capacities, whether individual, corporate, associate, or
19 otherwise of Defendants named herein as DOES 1-50, inclusive, are unknown to Plaintiff at this
20 time and therefore said Defendants are sued by such fictitious names. Plaintiff will seek leave to
21 amend this Complaint to insert the true names and capacities of said Defendants when the same
22 become known to Plaintiff. Plaintiff is informed and believes and thereupon alleges that each of
23 the fictitiously-named Defendants are responsible for the wrongful acts alleged herein and are
24 therefore liable to Plaintiff as alleged hereinafter.

25 13. Plaintiff is informed and believes, and based thereupon alleges, that at all times
26 relevant hereto, Defendants, and each of them, were the agents, employees, managing agents,
27 supervisors, conspirators, parent corporation, joint employers, alter ego, and/or joint ventures of
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the other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part within the course and scope of said agency, employment, conspiracy, joint employment, alter ego status, and/or joint venture and with the permission and consent of each of the other Defendants.

14. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of them, including those Defendants named DOES 1-50, acted in concert with one another to commit the wrongful acts alleged therein, and aided, abetted, incited, compelled, and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so. Plaintiff is further informed and believes, and thereon alleges, that the Defendants, and each of them, including those Defendants named as DOES 1-50, formed and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to and actually causing Plaintiff harm.

15. Plaintiff is further informed and believes, and thereon alleges, that at all times mentioned herein, Defendants and each of them, were and are the alter ego of each other, that there exists a unity of interest and ownership between each of them, such that any individuality and separateness between them have ceased. Plaintiff is informed and believe, and thereon allege, that at all times mentioned herein, each Defendants exercised control and dominion over each other with a disregard for the separate legal status of each entity in an attempt to commit the violations set forth herein. Adherence to the separate existence of each Defendants would permit an abuse of the corporate privilege and would sanction fraud and promote injustice. Plaintiff is further informed and believes, and thereon alleges, that at all times mentioned herein, Defendants operated a single integrated enterprise with joint ownership and/or management, shared or common business operations, and shared or common control over Plaintiff and Aggrieved Employees' employment.

16. Whenever and wherever reference is made in this Complaint to any act or failure to act by a Defendants or co-Defendants, such allegations and references shall also be deemed to

mean the acts and/or failures to act by each Defendants acting individually, jointly and severally.

GENERAL ALLEGATIONS

17. Labor Code section 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal overtime compensation (including overtime at the proper rate) or minimum wage compensation is entitled to recover in a civil action the unpaid balance of their overtime compensation (including overtime at the proper rate) and/or minimum wage compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

18. Further, Business and Professions Code section 17203 provides that any person who engages in unfair competition may be enjoined in any court of competent jurisdiction. Business and Professions Code section 17204 provides that any person who has suffered actual injury and has lost money or property as a result of the unfair competition may bring an action in a court of competent jurisdiction.

19. During all, or a portion of the Class Period, Plaintiff and each member of the Plaintiff Class was employed by Defendant, in the State of California. Plaintiff and each of the Plaintiff Class were non-exempt employees covered under one or more Industrial Welfare Commission (IWC) Wage Orders, and Labor Code and were entitled to receive meal periods or compensation in lieu thereof.

20. During all, or a portion of the Class Period, Plaintiff and each member of the Plaintiff Class was employed by Defendant, in the State of California. Plaintiff and each of the Plaintiff Class were non-exempt employees covered under one or more Industrial Welfare Commission (IWC) Wage Orders, and Labor Code and were entitled to receive rest periods or compensation in lieu thereof.

21. During all, or a portion of the Class Period, Plaintiff and each member of the Plaintiff Class was employed by Defendant, in the State of California. Plaintiff and each of the Plaintiff Class were non-exempt employees covered under one or more Industrial Welfare Commission (IWC)

1 Wage Orders, and Labor Code section 510, and/or other applicable wage orders, regulations and
2 statutes, and each Plaintiff Class member was not subject to an exemption for executive,
3 administrative and professional employees, which imposed obligations on the part of the
4 Defendant to pay Plaintiff and Plaintiff Class lawful overtime compensation.

5 22. During the Class Period, Defendant was obligated to pay Plaintiff and Plaintiff Class for
6 all hours worked.

7 23. During the Class Period, Defendant was obligated to pay Plaintiff and Plaintiff Class
8 minimum wages for all regular hours worked in violation of Labor Code section 1197. Defendant
9 instituted a policy and practice against its employees wherein regular and overtime wages due were
10 not paid in compliance with California law. Specifically, during the course of employment with
11 Defendant, Plaintiff and Plaintiff Class regularly worked off-the clock hours in excess of eight (8)
12 hours per day, but were routinely not paid for all hours worked. Further, Plaintiff and Plaintiff
13 Class were required to work overtime on Saturdays in excess of forty (40) hours per workweek,
14 but were not paid at the proper overtime rate of pay. Instead, Defendant has paid them regular rate
15 of pay in cash and failed to include the compensation for overtime work performed on Saturdays
16 in the wage statements.
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18 24. During the Class Period, Defendant was obligated to pay Plaintiff and Plaintiff Class
19 overtime compensation for all hours worked over eight (8) hours of work in one (1) day or forty
20 (40) hours in one (1) week, and double-time for hours worked in excess of twelve (12) in one day.

21 25. Plaintiff and each Class member primarily performed non-exempt work in excess of the
22 maximum regular rate hours set by the IWC in the applicable Wage Orders, regulations or statutes,
23 and therefore entitled the Plaintiff and Plaintiff Class to overtime compensation at time and a half
24 rate, and when applicable, double time rates as set forth by the applicable Wage Orders, regulations
25 and/or statutes.

26 26. Plaintiff Class who ended their employment during the Class Period, but were not paid the
27 above due compensation for all hours worked, overtime compensation timely upon the termination
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of their employment as required by Labor Code sections 201, 202, and 203, and were entitled to penalties as provided by California Labor Code section 203.

27. During the Class Period, the Defendant required the Plaintiff and Plaintiff Class to work off the clock as well as overtime without lawful compensation, in violation of the various applicable Wage Orders, regulations and statutes, and the Defendant: (1) willfully failed and refused, and continues to fail and refuse to pay compensation for all hours worked, lawful overtime compensation to the Plaintiff Class; and (2) willfully failed and refused, and continues to fail and refuse to pay due and owing wages promptly upon end of employment to Plaintiff and Plaintiff Class.

28. Defendant had a policy and/or practice of failing to reimburse Plaintiff and Plaintiff Class for incurring necessary business expenditures as required by Labor Code sections 2802. Specifically, Defendant required Plaintiff and Plaintiff Class to incur various business expenses at their own cost, including, but not limited to washing and maintaining the uniforms bearing Defendant's logo, but failed to provide any reimbursement for the cost of washing and maintaining the uniforms in violation of Labor Code section 2802.

CLASS ALLEGATION

29. Plaintiff brings this action on behalf of himself and all other similarly situated persons, as a class action pursuant to California Civil Code of Procedure section 382 on behalf of himself and all other similarly situated persons in the Plaintiff Class, which constitutes the defined class and is composed of the all current and former California hourly non-exempt employees who work or worked for Defendant during the Class Period.

30. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or modify the Class description with greater specificity or further division into subclasses or limitation to particular issues.

31. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined common interest of many persons and

1 it is impractical to bring them all before the Court.

2 32. This Court should permit this action to be maintained as a class action pursuant to
3 California Code of Civil Procedure section 382 because:

- 4 a) The questions of law and fact common to the Plaintiff Class predominate over
5 any question affecting only individual members;
- 6 b) A class action is superior to any other available method for the fair and efficient
7 adjudication of the claims of the members of the Plaintiff Class;
- 8 c) The Plaintiff Class is so numerous that it is impractical to bring all members
9 of the Class before the Court;
- 10 d) Plaintiff and the other members of the Plaintiff Class will not be able to obtain
11 effective and economic legal redress unless the action is maintained as a class
12 action;
- 13 e) Plaintiff and the other members of the Plaintiff Class will not be able to obtain
14 effective and economic legal redress unless the action is maintained as a class
15 action;
- 16 f) There is a community of interest in obtaining appropriate legal and equitable
17 relief for the common law and statutory violations and other improprieties, and
18 in obtaining adequate compensation for the damages and injuries which
19 Defendant's actions have inflicted upon the Plaintiff Class;
- 20 g) There is a community of interest in ensuring that the combined assets and
21 available insurance of the Defendant is sufficient to adequately compensate
22 members of the Plaintiff Class for the injuries sustained;
- 23 h) Without class certification, the prosecution of separate actions by individual
24 members of the Plaintiff Class would create a risk of:
 - 25 1) Inconsistent or varying adjudications with respect to individual
26 members of the Plaintiff Class which would establish incompatible
27 standard of conduct for the Defendant; and/or
 - 28 2) Adjudications with respect to the individual members which

would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible for Defendant; and

- i) Defendant has acted or refused to act on grounds generally applicable to the Plaintiff Class, thereby making final injunctive relief appropriate with respect to the Class as a whole.

FIRST CAUSE OF ACTION

Failure to Provide Rest Periods or Compensation in Lieu Thereof

(Plaintiff and Plaintiff Class against all Defendants)

33. Plaintiff and Plaintiff Class re-allege and incorporate by reference all the above paragraphs of this complaint as if fully alleged herein.

34. Plaintiff realleges and incorporates by reference all preceding paragraphs herein, as if fully alleged.

35. Labor Code sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes, or employ any person for a work period of more than ten (10) hours without a second meal period of not less than thirty (30) minutes.

36. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section. Plaintiff alleges Defendant failed to provide legally compliant meal periods, in addition to impeding, discouraging, dissuading, and/or not relieving employees from all work duties during meal periods thereby preventing employees from taking legally compliant meal periods.

1 37. At all times relevant hereto, Plaintiff and Plaintiff Class have worked shifts of more
2 than five (5) hours in a workday.

3 38. Pursuant to Labor Code section 226.7, Plaintiff and Plaintiff Class are entitled to
4 damages in the amount equal to one (1) hour of wages at their regular rate of pay for each missed
5 meal break, in an amount to be proven at trial.

6 39. At varying times relevant hereto, Plaintiff and Plaintiff Class have worked shifts
7 more than ten (10) hours in a workday.

8 40. Pursuant to Labor Code section 226.7, Plaintiff individually, and on behalf of the
9 Plaintiff Class, request recovery of meal period compensation which they are owed beginning four
10 (4) years prior to filing this complaint, as well as the assessment of any statutory penalties against
11 the Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.
12 Pursuant to Labor Code section 218.5, Code of Civil Procedure section 1021.5, and any other
13 provision of law, Plaintiff requests the court award reasonable attorneys' fees and costs incurred
14 by them in this action.

15 **SECOND CAUSE OF ACTION**

16 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**

17 **(Lab. Code, § 226.7)**

18 **(By Plaintiff against All Defendants)**

19 41. Plaintiff realleges and incorporates by reference all preceding paragraphs herein, as
20 if fully alleged.

21 42. Labor Code section 226.7 provides that employers authorize and permit all
22 employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours, or
23 major fraction thereof.

24 43. Labor Code section 226.7, subdivision (b), provides that if an employer fails to
25 provide and employee rest periods in accordance with this section, the employer shall pay the
26 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
27 that the rest period is not provided. Plaintiff and Plaintiff Class consistently worked over four (4)
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hours per shift with no rest breaks, due to Defendant's uniform policies and practices.

44. Defendant failed to reasonably make available rest breaks to Plaintiff and Plaintiff Class throughout the Class Period.

45. Plaintiff and Plaintiff Class are entitled to damages in an amount equal to one (1) hour of wages per missed rest break, in a sum to be proven at trial. Pursuant to Labor Code section 218.5, Code of Civil Procedure section 1021.5, and any other provision of law, Plaintiff requests the court award reasonable attorneys' fees and costs incurred by them in this action.

THIRD CAUSE OF ACTION

Failure to Pay All Wages

(Plaintiff and Plaintiff Class against all Defendants)

46. Plaintiff and Plaintiff Class re-allege and incorporate by reference all the above paragraphs of this complaint as if fully alleged herein.

47. Pursuant to Labor Code Section 1194, subdivision (a) any employee receiving less than the legal minimum wage or legal overtime compensation is entitled to recover in a civil action the amount of unpaid wages, attorneys' fees, and costs of suit.

48. Pursuant to Labor code section 1194.2 in any action to recover payment of wages less than the minimum wage an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

49. Plaintiff and Plaintiff Class regularly worked over eight (8) hours per day and forty (40) hours per week. Defendant failed to pay Plaintiff, and Plaintiff Class minimum and/or overtime premium for hours worked in excess of over eight (8) hours per day and forty (40) hours per week for work performed for the Defendant. Defendant failed to schedule Plaintiff and Plaintiff Class in such a manner that allowed Plaintiff and Plaintiff Class to be relieved of their shift immediately, thereby causing Plaintiff and Plaintiff Class to work without compensation and in excess of eight (8) hours per day and/or forty (40) hours per week. As such Plaintiff and Plaintiff Class seek minimum and/or overtime compensation in an amount according to proof. Pursuant to Labor Code sections 510 and 1194, the Plaintiff Class seeks the payment of all

1 minimum and/or overtime compensation which they earned and accrued four (4) years prior to
2 filing this complaint, according to proof.

3 50. Defendant willfully violated the Labor Code by failing to pay Plaintiff and
4 Plaintiff Class all wages. Plaintiff and Plaintiff Class were denied wages as a result of Defendant's
5 policy of having Plaintiff and Plaintiff Class work beyond the scheduled end of their shift and on
6 Saturdays without legally compliant compensation as required under California law.

7 51. Further, Defendant regularly violated the Labor Code with respect to meeting the
8 requirements of paying wages earned, including, overtime, double-time, as herein before alleged.
9 Thereby, Defendant was able to reduce its overhead and operating expenses and gain an unfair
10 advantage over competing manufacturers complying with state law.

11 52. Additionally, Plaintiff and Plaintiff Class are entitled to attorneys' fees, costs,
12 pursuant to California Labor Code sections 218.5, 226, 1194, and prejudgment interest.

13 **FOURTH CAUSE OF ACTION**

14 **Failure to Pay Wages of Terminated or Resigned Employees**

15 **(Plaintiff and Plaintiff Class against all Defendants)**

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17 53. The Plaintiff and Plaintiff Class re-allege and incorporate by reference all the
18 above paragraphs of this complaint as if fully alleged herein.

19 54. Plaintiff and the Plaintiff Class were required to work off the clock, and as a result
20 were not compensated for all hours worked. Defendant refused and/or failed to promptly
21 compensate Plaintiff and Plaintiff Class wages owed as a result of Defendant's failure to pay
22 minimum wages as well as requiring Plaintiff and Plaintiff Class to work off the clock hours
23 without compensation.

24 55. Plaintiff and/or the members of the Plaintiff Class who ended their employment
25 with the Defendant during the Class Period, were entitled to be promptly paid for all hours
26 worked, lawful overtime compensation and other premiums, as required by Labor Code sections
27 201-203. Defendant refused and/or failed to promptly compensate Plaintiff and Plaintiff Class
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1 wages owed as a result of Defendant's failure to pay minimum wages as well as pay minimum,
2 overtime, and/or double-time compensation as a result of working up to and in excess of eight (8)
3 hours per day and/or forty (40) hours per week. Pursuant to Labor Code section 203, such Plaintiff
4 and Plaintiff Class seek the payment of penalties pursuant to Labor Code section 203, and
5 prejudgment interest, according to proof.

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7 **FIFTH CAUSE OF ACTION**
8 **Failure to Provide Accurate Wage Statements**
9 **(Plaintiff and Plaintiff Class against all Defendants)**

10 56. Plaintiff and Plaintiff Class re-allege and incorporate by reference, as though fully
11 set forth herein, the above paragraphs as if fully alleged herein.

12 57. Labor Code sections 226, 226.3, 1174 and 1174.5 and applicable IWC Wage Order
13 provides that employers must keep records and provide employees with itemized wage statements
14 showing total hours worked and each applicable rate of pay in effect during the pay period with
15 the corresponding number of hours worked at each hourly rate.

16 58. Labor Code section 226, subdivision (a), requires an employer provide employees-
17 either as a detachable part of the check, draft, or voucher paying the employee's wages, or
18 separately when wages are paid by personal check or cash-an accurate itemized wage statement
19 in writing showing: "(1) gross wages earned, (2) total hours worked by the employee, (3) all
20 deductions, (4) net wages, (5) the inclusive dates of the period for which the employee is paid,
21 (6) the name of the employee and only the last four digits of his or her social security number or
22 an employee identification number other than a social security number, (7) the name and address
23 of the legal entity that is the employer, and (8) all applicable hourly rates in effect during the pay
24 period and corresponding number of hours worked at each hourly rate by the employee"

25 59. Labor Code section 226.2, subdivision (a)(2), requires the itemized statements
26 required by subdivision (a) of section 226 shall, in addition to the other items specified in that
27 subdivision, state the following: total hours of compensable rest and recovery periods, the rate of
28 compensation, and the gross wages paid for those periods during the pay period.

1 60. Defendant willfully violated Labor Code section 226, subdivision (a) by failing to
2 provide Plaintiff and Plaintiff's Class with wage statements that accurately reflect the total hours
3 worked, the rate of pay for each hour worked, and net and gross wages earned.

4 61. Labor Code section 226, subdivision (a) states that, "every employer shall,
5 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
6 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately
7 when wages are paid by personal check or cash, an accurate itemized statement in writing."

8 62. IWC Wage Order Number 1-2001, paragraph 7(a) requires that every employer
9 shall keep accurate information with respect to each employee, including time records showing
10 when each employee begins and ends each work period, the total daily hours worked by each
11 employee and the total hours worked in each payroll period, applicable rates of pay, and net and
12 gross wages earned.

13 63. Plaintiffs are informed, and believe that Defendant willfully and intentionally
14 failed to make and/or keep records which accurately reflect the hours worked by Plaintiff and
15 Plaintiff Class. Specifically, Plaintiff believes that Defendant's records do not accurately reflect
16 all hours worked where Plaintiff and Plaintiff Class were required to work "off the clock" beyond
17 the scheduled end of their shift and on Saturdays, the accurate rate of pay for each hour worked,
18 and net and gross wages earned.

19 64. Plaintiff is informed, and believes that Defendant's failure to keep accurate payroll
20 records, as described above, violated Labor Code section 1174, subdivision (d) and the applicable
21 wage order. Plaintiff and Plaintiff Class are entitled to penalties of one hundred dollars (\$100.00)
22 for the initial violation and two hundred dollars (\$200.00) for each subsequent violation for every
23 pay period during which these records and information was not kept by Defendant.

24 65. An employee suffering injury as a result of a knowing and intentional failure by
25 an employer to comply with Labor Code section 1174, subdivision (a) is entitled to recover the
26 greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation
27 occurs and one hundred dollars (\$100.00) per employee for each violation in a subsequent pay
28 period, not to exceed an aggregate penalty of four thousand dollars (\$4,000.00), and is entitled to

an award of costs and reasonable attorney's fees.

66. Plaintiff is informed and believes that Defendant's failure to keep and maintain accurate records and information, as described above, were willful, and Plaintiff and Plaintiff Class are entitled to a statutory penalty of five hundred dollars (\$500.00) for Plaintiff and each member of Plaintiff Class pursuant to Labor Code section 1174.5.

SIXTH CAUSE OF ACTION

**Failure to Reimburse for Necessary Business Expenditures
(Plaintiff against all Defendants)**

67. Plaintiff and the Plaintiff Class reallege and incorporate by reference all the above paragraphs of this complaint as if fully alleged herein.

68. California Labor Code section 2802, states "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."

69. Plaintiff and Plaintiff Class were not reimbursed by Defendant for necessary expenditures as a direct consequence of the discharge of their duties. Defendant required Plaintiff and Plaintiff Class to incur various business expenses at their own cost, including, but not limited to washing and maintaining the uniforms bearing Defendant's logo, but failed to provide any reimbursement for the cost of washing and maintaining the uniforms.

70. Defendant knowingly, willingly and intentionally attempted to offset the cost of doing business on the Plaintiff and Plaintiff Class.

71. Defendant had a corporate practice and policy of requiring Plaintiff and Plaintiff Class to shoulder the burden of Defendant's cost of doing business by failing to reimburse Plaintiff and Plaintiff Class for necessary expenditures, specifically requiring Plaintiff and Plaintiff Class to wash and maintain the uniforms bearing Defendant's logo.

72. Accordingly, Plaintiff and Plaintiff Class is entitled to an award of "necessary expenditures or losses" shall include all reasonable costs, including, but not limited to, attorney's fees and interest.

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SEVENTH CAUSE OF ACTION

**Unfair Competition
(Plaintiff and Plaintiff Class against all Defendants)**

73. Plaintiff and Plaintiff Class re-allege and incorporate by reference all the above paragraphs of this complaint as if fully alleged herein.

74. California Business and Professions Code sections 17200 et seq. (also referred to herein as the “Unfair Business Practices Act” or “Unfair Competition Law”) prohibits unfair competition in the form of any unlawful, unfair or fraudulent business act or practice.

75. California Business and Professions Code section 17204 allows “any person who has suffered injury in fact and has lost money or property as a result of such unfair competition” to prosecute a civil action for violation of the UCL.

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

77. Beginning at an exact date unknown to Plaintiff, but at least since the date four years prior to the filing of this suit, Defendant has committed acts of unfair competition as defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair, and fraudulent business practices and acts described in this complaint including but not limited to violations of Labor Code sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 515, 1174, 1194, and 2802; as well as other statutes.

78. The violations of these laws and regulations, as well as of the fundamental California public policies protecting workers, serve as unlawful predicate acts and practices for purposes of Business and Professions Code sections 17200 et seq.

79. The acts and practices described above constitute unfair, unlawful, and fraudulent Business Practices, and unfair competition, within the meaning of Business and Professions Code sections 17200 et seq. Among other things, the acts and practices have forced Plaintiff and

1 other similarly situated workers to labor for many hours in a row without receiving overtime
2 compensation, to which they are entitled by law, while enabling Defendant to gain an unfair
3 competitive advantage over law-abiding employers and competitors.

4 80. As a result of Defendant's acts, Plaintiff and other similarly situated workers have
5 suffered injury in fact in being denied their statutorily entitled wages for hours of labor. As a
6 result of Defendant's unlawful acts of unfair competition, Plaintiff has lost money and property
7 in the form of a loss of wages in an amount to be proven at trial.

8 81. As a result of Defendant's acts, Plaintiff and other similarly situated workers have
9 suffered injury in fact in being denied reimbursement for necessary job-related expenditures
10 incurred during the performance of their job duties. As a result of Defendant's unlawful acts of
11 unfair competition, Plaintiff has lost money and property in the form of unreimbursed
12 expenditures in an amount to be proven at trial.

13 82. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
14 and Plaintiff Class have suffered a loss of wages in an amount to be proven at trial.

15 83. Business and Professions Code sections 17203 provides that a court may make
16 such orders or judgments as may be necessary to prevent the use or employment by any person
17 of any practice which constitutes unfair competition. Injunctive relief is necessary and
18 appropriate to prevent Defendant from repeating their unlawful, unfair, and fraudulent business
19 acts and business practices alleged above.

20 84. Business and Professions Code sections 17203 provides that the Court may
21 restore to any person in interest any money or property that may have been acquired by means of
22 such unfair competition. Plaintiff and Plaintiff Class are entitled to restitution pursuant to
23 Business and Professions Code section 17203 for wages and payments unlawfully withheld from
24 employees, including the fair value of the hours worked, and unreimbursed expenses incurred
25 during the four-year period prior to the filing of this complaint.

26 85. Business and Professions Code section 17202 provides: "Notwithstanding Section
27 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
28 forfeiture, or penal law in a case of unfair competition." Plaintiff and Plaintiff Class are entitled

1 to enforce all applicable penalty provisions of the Labor Code pursuant to Business and
2 Professions Code section 17202.

3 86. Plaintiff's success in this action will enforce important rights affecting the public
4 interest, and, in that regard, Plaintiff sues on behalf of the general public as well as himself and
5 others similarly situated. Plaintiff and Plaintiff Class seek and are entitled to restitution, civil
6 penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

7 87. Plaintiff herein takes upon himself enforcement of these laws and lawful claims.
8 There is a financial burden involved in pursuing this action. The action is seeking to vindicate a
9 public right, and it would be against the interests of justice to penalize Plaintiff by forcing them
10 to pay attorney's fees from the recovery in this action. Attorneys' fees are appropriate pursuant
11 to Code of Civil Procedure section 1021.5 and otherwise.

12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, the Plaintiff prays for judgment as follows:

- 14 1. For compensatory damages according to proof;
15 2. For interest on any compensatory damages;
16 3. For statutory penalties;
17 4. For reimbursement of necessary expenditures;
18 5. For waiting time statutory amounts under Labor Code section 203;
19 6. For the equitable, injunctive and declaratory relief requested;
20 7. For disgorgement of profits;
21 8. Restitution;
22 9. Attorney's fees; and
23 10. Cost of suit.

24 Dated: September 23, 2022

25 **WORK LAWYERS, PC**

26 

Justin Lo, Esq.

27 Attorneys for Plaintiff MARIO GARCIA FLORES
28 and on behalf of similarly situated employees