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

NICOLAS SANCHEZ, as an individual, and
on behalf of all others similarly situated,

Plaintiff,

v.

CARDENAS BROTHERS AG, INC., a
California corporation; MCCLARTY FARMS,
LLC, a California limited liability company;
and DOES 1 through 100, inclusive,

Defendants.

Case No. 22C-0173

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

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, AND
1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 512);**
- (4) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (5) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (6) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200, *et seq.*);**
- (7) **FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS
EXPENSES (LABOR CODE § 2802);
AND**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Nicolas Sanchez (hereinafter “Plaintiff”), an individual, hereby brings this Class
2 Action Complaint against Cardenas Brothers AG, Inc., a California corporation, McClarty Farms,
3 LLC, a California limited liability company, and DOES 1 to 100, inclusive (collectively
4 “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff hereby brings this Class Action Complaint for recovery of unpaid wages
7 and penalties under California Business and Professions Code § 17200 *et. seq.*, Labor Code §§
8 201-205, 226 *et. Seq.*, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, and
9 Industrial Welfare Commission Wage Order 14 (“Wage Order 14”), in addition to seeking
10 declaratory relief and restitution. This Complaint is brought pursuant to California Code of Civil
11 Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor
12 Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

13 **VENUE**

14 2. Venue is proper in this judicial district pursuant to California Code of Civil
15 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
16 occurred in the County of Kings. Defendants own, maintain offices, transact business, have an
17 agent or agents within the County of Kings, and/or otherwise are found within the County of
18 Kings, and Defendants are within the jurisdiction of this Court for purposes of service of process.

19 **PARTIES**

20 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
21 Plaintiff was and currently is a California resident. During the four years immediately preceding
22 the filing of the Complaint in this action and within the statute of limitations periods applicable
23 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
24 employee. Plaintiff was and is a victim of Defendants’ policies and/or practices complained of
25 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
26 §§ 201-205, 226 *et. Seq.*, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802
27 California Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”), and Wage
28 Order 14, which sets employment standards for the agricultural industries.

1 4. Plaintiff is informed and believes, and based thereon allege, that during the four
2 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
3 continue to do) business by harvesting agricultural commodities in California and the United
4 States, employed Plaintiff within Kings County and the state of California and, therefore, were
5 (and are) doing business in Kings County and the State of California.

6 5. Plaintiff does not know the true names or capacities, whether individual, partner,
7 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
8 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
9 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
10 and believe, and based thereon allege, that each of said fictitious defendants, whether individual,
11 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
12 and proximately caused Plaintiff and the Classes (as defined herein) to be subjected to the
13 unlawful employment practices, wrongs, injuries and damages complained of herein.

14 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
15 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

16 7. At all times herein mentioned, each of said Defendants participated in the doing
17 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
18 Defendants, and each of them, were the agents, servants, and employees of each and every one of
19 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
20 were acting within the course and scope of said agency and employment. Defendants, and each
21 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
22 omissions complained of herein.

23 8. At all times mentioned herein, Defendants, and each of them, were members of
24 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
25 and scope of, and in pursuance of said joint venture, partnership, and common enterprise. Further,
26 Plaintiff alleges that all Defendants were joint employers for all purposes towards Plaintiff and
27 all members of the Classes.

28 9. McClarty Farms, LLC is also jointly liable with Defendant Cardenas Brothers AG,

1 Inc. for all civil legal responsibility and civil liability for the payment of wages, including all
2 sums payable to an employee or the state of California based upon any failure to pay wages,
3 pursuant to Labor Code §2810.3.

4 **GENERAL FACTUAL ALLEGATIONS**

5 10. Plaintiff began his employment with Defendants around September 2020 and
6 worked for Defendants until he separated her employment with Defendants on or around June 2,
7 2021.

8 11. Plaintiff generally worked six days a week, Monday through Saturday, at least
9 eight hours per shift. Plaintiff performed general farm-labor tasks, mainly picking pomegranates,
10 persimmons, nectarines, peaches, and other fruits at various farms that Defendant contracted
11 Plaintiff and other non-exempt employees to perform work at. During the Summer seasons,
12 Plaintiff generally credited with working from 5-5:30 a.m. until 2-2:30 p.m. In the Winter
13 seasons, Plaintiff was generally credited with working from 8-8:30 a.m. until 3-3:30 p.m. The
14 rest of the year, Plaintiff was generally credited with working 6-6:30 a.m. until 3-3:30 p.m.
15 However, as discussed below, Plaintiff worked considerably more hours than he was credited for
16 on the timesheets prepared by his supervisors, who did not track the hours worked by Plaintiff
17 and other non-exempt employees in any manner, instead opting to compensate Plaintiff and other
18 non-exempt employees based on their pre-scheduled hours regardless of how many hours they
19 actually worked. Plaintiff was paid at a rate of \$14.00 per hour at the time of his separation with
20 Defendants.

21 12. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and
22 other non-exempt employees were not paid for all hours worked as their supervisors would not
23 keep track of their actual hours worked, instead electing to compensate them for their scheduled
24 hours regardless of the amount of hours they were actually performing work, which functionally
25 served to underreport and undercompensate Plaintiff and other non-exempt employees for all of
26 the time that they were actually working. Furthermore, Plaintiff and other non-exempt employees
27 routinely worked overtime hours, based on the requirements of Wage Order 14, per workweek
28 but did not receive overtime compensation equal to one and one-half times their regular rates of

1 pay for all overtime hours worked. For example, Plaintiff and other non-exempt employees
2 routinely worked longer than their actual pre-scheduled hours so as to ensure that the days' work
3 was all completed prior to departing the work site, but were only provided compensation for their
4 pre-scheduled hours despite this reality. Defendants also failed to provide "Reporting Time Pay"
5 to Plaintiff and other non-exempt employees on those occasions where they were required to
6 report to Defendants' worksite but was not able to perform work due to weather conditions or
7 otherwise. Despite maintaining a policy that required its employees to report to the worksite
8 every day regardless of weather conditions, Defendants failed to provide any sort of compensation
9 to Plaintiff and the other non-exempt employees on those occasions where they reported to the
10 worksite but was unable to perform any work in violation of the "Reporting Time Pay"
11 requirements as set forth in Wage Order 14 § 5. Defendants maintained a strict policy/practice
12 that employees were only to be compensated if they were actually on the fields working and did
13 not provide any compensation for those hours and/or entire days where they were required to
14 report to the job site but unable to perform work due to weather conditions or otherwise.
15 Consequently, due Defendants' unlawful timekeeping and payment policies and practices that
16 failed to compensate for all hours worked, Plaintiff and other non-exempt employees have been
17 deprived of all required minimum and overtime wages earned.

18 13. In addition, Plaintiff and other non-exempt employees were not provided all
19 legally compliant meal periods due to Defendants' meal period policies and practices which fail
20 to provide a timely duty-free first meal period (i.e. a first meal period commencing before the end
21 of the fifth hour of work. Furthermore, even on those occasions where Plaintiff and other non-
22 exempt employees did receive meal periods, they were almost always interrupted and non-duty
23 free. Additionally, Plaintiff and the other non-exempt employees were not allowed to leave the
24 facility during their meal periods, further resulting in Defendants' failure to provide duty-free
25 meal periods. Plaintiff's missed, late, and on-duty meal periods were a direct result of
26 Defendants' policy/practice. Defendants also failed to provide Plaintiff and other non-exempt
27 employees all timely duty-free second meal periods. In addition, on those occasions when
28 Plaintiff and the other non-exempt employees were not provided with all legally compliant meal

periods to which they were entitled, Defendants failed to compensate them with the required meal period premiums for each workday in which they experienced a meal period violation, as mandated by Labor Code § 226.7.

14. Defendants failed to adequately reimburse Plaintiff and other non-exempt employees for all reasonable and necessary work expenditures and required Plaintiff and other non-exempt employees to purchase their own tools including, but not limited to, pruning shears and sharpeners.

15. As a result of Defendants' failure to pay all minimum and overtime wages, and meal period premium wages, Defendants maintained inaccurate payroll records, and issued inaccurate and deficient wage statements. Furthermore, Defendants issued facially inaccurate wage statements in violation of Labor Code 226(a)(8) which requires that farm labor contractors identify the legal name and address that is the client-employer. Specifically, Defendants failed to meet their affirmative obligation to identify the legal entity and address of the client-employer grower(s), including but not limited to McClarty Farms, LLC. For example, on Plaintiff's wage statement numbered 60491 representing the pay period between May 31, 2021 to June 6, 2021, Defendants simply listed the word "MCCLARTY" next to the amount of hours worked by its employees at the job site, instead of actually identifying the name and address of the legal entity that is "MCCLARTY." Moreover, from September 2020 and April 2021, Defendants failed to provide any wage statements or any paper explaining the detail of his compensation and deductions to employees and paid non-exempt employees only in cash.

16. As a further result of Defendants' failure to pay all minimum and overtime wages, and meal period premium wages, Defendants failed to pay all wages owed to Plaintiff and the other non-exempt employees upon their separation of employment from Defendants. Furthermore, Defendants violated Labor Code § 204 by failing to pay Plaintiff and other non-exempt employees at least twice during each calendar month. Additionally, Defendants, as a farm labor contractor, violated Labor Code § 205 by paying Plaintiff and other non-exempt employees on a delay of five days or more, in violation of the "fourth day" requirement that Defendants pay its employees for all wages up to and including the fourth day before the scheduled payday.

1 17. Defendants failed to conform to the requirements of Labor Code § 2810.5 by
2 failing to provide Plaintiff and other non-exempt employees written notices, in the language
3 normally used to communicate employment related information to the employees, containing
4 information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part
5 of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the
6 employer; vi) the address of the legal entity that is the employer; vii) the telephone number of the
7 employer; viii) identifying information for the employer's workers' compensation insurance
8 carrier; and ix) information informing the employee of their right to accrue and use paid sick
9 leave. Despite maintaining an obligation to provide these disclosures to Plaintiff and other non-
10 exempt employees, Defendants failed to do so, in violation of Labor Code § 2810.5.

11 **CLASS ACTION ALLEGATIONS**

12 18. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
13 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 14 a. The Minimum Wage Class consists of all current and former non-exempt
15 employees of Defendant Cardenas Brothers Ag, Inc. who performed work for
16 Defendant McClarty Farms, LLC in California who were subject to Defendants'
17 timekeeping systems and/or practices, during the four years immediately
18 preceding the filing of this lawsuit through the present.
- 19 b. The Overtime Wage Class consists of all current and former non-exempt
20 employees of Defendant Cardenas Brothers Ag, Inc. who performed work for
21 Defendant McClarty Farms, LLC in California who worked overtime hours (based
22 on criteria set forth in Wage Order 14) during the four years immediately
23 preceding the filing of this lawsuit through the present.
- 24 c. The Meal Period Class consists of all current and former non-exempt employees
25 of Defendant Cardenas Brothers Ag, Inc. who performed work for Defendant
26 McClarty Farms, LLC in California who: (i) worked at least one shift in excess of
27 5.0 hours without a meal period of at least 30 minutes in duration commencing
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prior to the conclusion of the fifth hour of work and/or (ii) worked at least one shift in excess of 10.0 hours without a second meal period of at least 30 minutes in duration commencing prior to the conclusion of the tenth hour of work, and who do not have a corresponding meal period premium payment made for such shifts during the four years preceding the filing of this lawsuit through the present.

d. The Employee Expense Class consists of all of Defendant Cardenas Brothers Ag, Inc.' employees who performed work for Defendant McClarty Farms, LLC in California who were not reimbursed for the purchase and maintenance of tools necessary for the performance of their job duties during the four years immediately preceding the filing of this lawsuit to the present

e. The Wage Statement Class consists of all members of the Minimum Wage Class, Overtime Class, and/or Meal Period Class who received a wage statement from Defendants during the one year immediately preceding the filing of this lawsuit through the present.

f. The Waiting Time Class consists of all Defendants formerly employed members of the Minimum Wage Class, Overtime Class, and/or Meal Period Class who separated from employment during the three years immediately preceding the filing of this lawsuit through the present.

19. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- 1 i. Whether Defendants paid all minimum wages owed for all hours worked to
2 members of the Minimum Wage Class pursuant to Labor Code §§ 118.2, 1194,
3 1194.2, and 1197;
- 4 ii. Whether Defendants violated the applicable Labor Code provisions, including, but
5 not limited to, §§ 510 and 1194 and Wage Order 14 by requiring members of the
6 Overtime Wage Class to perform overtime work and not paying for said work in
7 accordance with the overtime laws of the State of California;
- 8 iii. Whether Defendants' timekeeping policies/practices resulted in the failure to
9 properly compensate members of the Minimum Wage Class;
- 10 iv. Whether Defendants provided all legally compliant meal periods to members of
11 the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- 12 v. Whether Defendants failed to reimburse members of the Employee Expense Class
13 for business expenditures necessarily incurred in the performance of their duties;
- 14 vi. Whether Defendants provided accurate, itemized wage statements to members of
15 the Classes; and
- 16 vii. Whether Defendants' policies and/or practices for the timing and amount of
17 payment of final wages to members of the Waiting Time Class at the time of
18 separation from employment were lawful.

19
20 21. **Predominance of Common Questions:** Common questions of law and fact
21 predominate over questions that affect only individual members of the Classes. The common
22 questions of law set forth above are numerous and substantial and stem from Defendants' policies
23 and/or practices applicable to each individual class member, such as Defendants' uniform
24 timekeeping policies and practices, meal period policies and practices, non-reimbursement
25 policies and practices, wage statement policies and practices, and the policies and practices
26 regarding the timely payment of final wages. As such, the common questions predominate over
27 individual questions concerning each individual class member's showing as to his or her
28 eligibility for recovery or as to the amount of his or her damages.

1 22. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
2 Plaintiff was employed by Defendants as a non-exempt employee in California during the
3 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
4 herein, Plaintiff, like the members of the Classes, was subject to Defendants' meal period and
5 timekeeping policies and practices, was subjected to Defendants' unlawful failure to reimburse
6 business expenses, was provided inaccurate wage statements, and was not paid all wages earned
7 at the time of his separation of employment.

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

14 24. **Superiority:** The California Labor Code is broadly remedial in nature and serves
15 an important public interest in establishing minimum working conditions and standards in
16 California. These laws and labor standards protect the average working employee from
17 exploitation by employers who have the responsibility to follow the laws and who may seek to
18 take advantage of superior economic and bargaining power in setting onerous terms and
19 conditions of employment. The nature of this action and the format of laws available to Plaintiff
20 and members of the Classes make the class action format a particularly efficient and appropriate
21 procedure to redress the violations alleged herein. If each employee were required to file an
22 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
23 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
24 their vastly superior financial and legal resources. Moreover, requiring each member of the
25 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
26 employees who would be disinclined to file an action against their former and/or current employer
27 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
28

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

12
13 **FIRST CAUSE OF ACTION**
14 **MINIMUM WAGE VIOLATIONS**
15 **(AGAINST ALL DEFENDANTS)**

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

17 26. Wage Order 14, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
18 right of employees to be paid minimum wages for all hours worked in amounts set by state law.
19 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
20 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
21 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
22 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform
23 their pay practices to the requirements of the law by failing to pay Plaintiff and the Minimum
24 Wage Class for all hours actually worked including, but not limited to, all hours he was subject
25 to the control of Defendants and/or suffered or permitted to work under the California Labor Code
26 and Wage Order 14.

27 27. California Labor Code § 1198 makes unlawful the employment of an employee
28 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide

1 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
2 those employees the balance of the unpaid wages as well as liquidated damages in an amount
3 equal to the wages due and interest thereon.

4 28. Wage Order 14 § 5 (A) requires that “Each workday an employee is required to
5 report for work and does report, but is not put to work or is furnished less than half said
6 employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or
7 scheduled day’s work, but in no event for less than two hours nor more than four hours, at the
8 employee’s regular rate of pay, which shall not be less than the minimum wage.” By requiring
9 Plaintiff and the Minimum Wage Class to routinely report to the worksite on days that weather
10 conditions did not permit for the commencement of work, and not paying Plaintiff Reporting
11 Time Pay as mandated by Wage Order 14 § 5 (A), Defendants have failed to pay Plaintiff and the
12 Minimum Wage Class all minimum wages.

13 29. As a direct and proximate result of Defendants’ unlawful conduct as alleged
14 herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but
15 not limited to, unpaid wages and lost interest in an amount to be established at trial, and are
16 entitled to recover economic and statutory damages and penalties and other appropriate relief as
17 a result of Defendants’ violations of the California Labor Code and Wage Order 14.

18 30. Defendants’ practice and uniform administration of corporate policy regarding
19 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
20 the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated
21 damages, including interest thereon, statutory penalties, and attorneys’ fees and costs of suit
22 according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of Civil
23 Procedure § 1021.5.

24 **SECOND CAUSE OF ACTION**

25 **FAILURE TO PAY ALL OVERTIME WAGES**

26 **(AGAINST ALL DEFENDANTS)**

27 31. Plaintiff re-allege and incorporates by reference all previous paragraphs.

28 32. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,

1 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
2 overtime hours worked, and provide a private right of action for the failure to pay all overtime
3 compensation for overtime work performed.

4 33. At all times relevant herein, Defendants were required to properly compensate
5 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
6 Labor Code § 1194 and Wage Order 14. Wage Order 14, § 3 requires an employer to pay overtime
7 wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth
8 in the Wage Order.

9 34. Wage Order 14 § 5 (A) requires that "Each workday an employee is required to
10 report for work and does report, but is not put to work or is furnished less than half said
11 employee's usual or scheduled day's work, the employee shall be paid for half the usual or
12 scheduled day's work, but in no event for less than two hours nor more than four hours, at the
13 employee's regular rate of pay, which shall not be less than the minimum wage." By requiring
14 Plaintiff and the Overtime Class to routinely report to the worksite on days that weather conditions
15 did not permit for the commencement of work, and not paying Plaintiff Reporting Time Pay as
16 mandated by Wage Order 14 § 5 (A), Defendants have failed to pay Plaintiff and the Overtime
17 Class all overtime wages.

18 35. The foregoing policies and practices are unlawful and create entitlement to
19 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
20 premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of
21 suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 14, and
22 Code of Civil Procedure § 1021.5.

23 **THIRD CAUSE OF ACTION**

24 **MEAL PERIOD VIOLATIONS**

25 **(AGAINST ALL DEFENDANTS)**

26 36. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

27 37. Plaintiff is informed and believe, and based thereon allege, that Defendants failed
28 in their affirmative obligation to provide all of their non-exempt employees in California,

1 including Plaintiff and members of the Meal Period Class with all legally compliant meal periods
2 in accordance with the mandates of the California Labor Code and Wage Order 14, § 11. Despite
3 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Meal
4 Period Class at their respective regular rate of pay, in accordance with California Labor Code §§
5 204, 210, 226.7, and 512.

6 38. As a result, Defendants are responsible for paying premium compensation for meal
7 period violations including interest thereon, as well as statutory penalties, civil penalties, and
8 costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 14, and Civil Code §§
9 3287(b) and 3289.

10 **FOURTH CAUSE OF ACTION**
11 **WAITING TIME PENALTIES**
12 **(AGAINST ALL DEFENDANTS)**

13 39. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

14 40. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
15 an employer to pay all wages immediately at the time of termination of employment in the event
16 the employer discharges the employee or the employee provides at least 72 hours of notice of
17 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
18 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
19 employee's last date of employment.

20 41. Defendants failed to timely pay Plaintiff and members of the Waiting Time Class
21 all final wages due to them at the time of their separation including, among other things, unpaid
22 and/or underpaid overtime and minimum wages owed, and meal and rest period premium wages.
23 Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform
24 policy and practice, Defendants continue to fail to pay members of the Waiting Time Class all
25 earned wages at the end of employment in a timely manner pursuant to the requirements of Labor
26 Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of
27 Labor Code § 203.
28

42. Defendants' willful failure to timely pay Plaintiff and the Waiting Time Class their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

FIFTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(AGAINST ALL DEFENDANTS)

43. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

44. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class with complete and accurate wage statements reflecting the accurate number of hours worked, meal period premiums, and rest period premiums in violation of Labor Code § 226 *et seq.* Furthermore, Defendants issued facially deficient wage statements in violation of Labor Code 226(a)(8) by failing to meet its affirmative obligation to identify the legal entity and address of the client-employer grower(s), including but not limited to McClarty Farms, LLC, which requires that that farm labor contractors identify "the name and address of the legal entity that secured the services of the employer", which Defendants failed to do in favor of simply listing the word "MCCLARTY" next to the amount of hours worked by its employees at the job site

45. Defendants' failures in furnishing Plaintiff and the Wage Statement Class with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum wages, overtime wages, meal period premium wages, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

46. Defendants' failures create an entitlement to recovery by Plaintiff and the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq.*

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

47. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

48. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by failing to pay Plaintiff and the Classes all minimum and overtime wages, provide all required meal periods, or pay premium payments in lieu thereof, failing to furnish accurate, itemized wage statements, failing to reimburse for necessary business expenses, and willfully failing to timely pay Plaintiff and members of the Waiting Time class all final wages due upon separation of employment.

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

50. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seek full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

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

52. Plaintiff is compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

3 **(AGAINST ALL DEFENDANTS)**

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

5 54. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
6 states that “an employer shall indemnify his or her employees for all necessary expenditures or
7 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
8 his or her obedience to the directions of the employer...”

9 55. Due to Defendants’ unlawful policy and practice of requiring employees to
10 purchase their own pruning shears and sharpeners in the performance of their job duties,
11 Defendants have violated Labor Code § 2802.

12 56. Plaintiff and the members of the Employee Expense Class are entitled to attorneys’
13 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

14 57. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
15 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff
16 and members of the Employee Expense Class are entitled to interest, which shall accrue from the
17 date on which they incurred the initial necessary expenditure.

18 **EIGHTH CAUSE OF ACTION**

19 **PRIVATE ATTORNEYS GENERAL ACT**

20 **(AGAINST ALL DEFENDANTS)**

21 58. Plaintiff re-alleges and incorporates by reference all prior paragraphs as through
22 fully set forth herein.

23 59. Defendants have committed several Labor Code violations against Plaintiff,
24 members of the Classes, and other aggrieved employees. Plaintiff, an “aggrieved employee” within
25 the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
26 employees, brings this representative action against Defendants to recover the civil penalties due
27 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
28

1 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
2 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
3 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
4 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
5 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
6 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
7 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
8 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
9 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent
10 violation per employee per pay period for those violations of the Labor Code for which no civil
11 penalty is specifically provided, based on the following Labor Code violations:

- 12 a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum
13 Wage Class, and other aggrieved employees in violation of Labor Code §§ 558,
14 1182.12, 1194, 1194.2, 1197, and 1198;
- 15 b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all
16 earned overtime compensation in violation of Labor Code §§ 204, 510, 558,
17 1194, and 1198;
- 18 c. Failing to provide all legally required meal periods, and failure to pay meal
19 period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved
20 employees at the regular rate of compensation in violation of Labor Code §§
21 226.7, 512, 558, and 1198;
- 22 d. Failing to reimburse Plaintiff, the Employee Expense Class, and other
23 aggrieved employees for all necessary work expenses incurred in violation of
24 Labor Code §§ 2802 and 2804;
- 25 e. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved
26 employees with complete, accurate, itemized wage statements in violation of
27 Labor Code § 226;
- 28

- 1 f. Failing to timely pay all final wages and compensation earned by Plaintiff, the
2 Waiting Time Class, and other aggrieved employees at the time of separation
3 in violation of Labor Code §§ 201, 202, and 203;
4 g. Failing to pay non-exempt employees all earned wages at least twice during
5 each calendar month in violation of Labor Code § 204;
6 h. Failing to compensate Plaintiff and other aggrieved employees at least once
7 every week on a business day designated in advance and including all wages
8 earned up to and including the fourth day before such payday in violation of
9 Labor Code § 205; and
10 i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved
11 employees in violation of Labor Code § 1174.

12 60. On May 16, 2022, Plaintiff notified Defendants via certified mail, and notified the
13 California Labor and Workforce Development Agency (“LWDA”) via its website, of
14 Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for
15 civil penalties under California Labor Code § 2698 et seq. with respect to violations of the
16 California Labor Code identified in Paragraph 59 (a)-(i). Now that sixty-five days have passed
17 from Plaintiff’s notifying Defendants and the LWDA of these violations, and the LWDA has not
18 provided notice that it intends to investigate the violations, Plaintiff has exhausted his
19 administrative requirements for bringing a claim under the Private Attorneys General Act with
20 respect to these violations.

21 61. Plaintiff was compelled to retain the services of counsel to file this court action to
22 protect his interests and the interests of other similarly aggrieved employees, and to assess and
23 collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and
24 costs, which he is entitled to receive under California Labor Code § 2699(g).

25 **PRAYER**

26 WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf
27 this suit brought against Defendants, as follows:

- 28 1. For an order certifying the proposed Classes;

2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1198 and Wage Order 14 § 5(A);
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and Wage Order 14 § 5(A);
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Forth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code § 226;
9. Upon the Sixth Cause of Action, for restitution to Plaintiff of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
10. Upon the Seventh Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code § 2802;
11. Upon the Eighth Cause of Action, for (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for the

violations of the Labor Code Sections cited in Labor Code § 2699.5.

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

13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §226, and Code of Civil Procedure § 1021.5; and

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

Dated: August 18, 2022

Respectfully submitted,
STANSBURY BROWN LAW, PC

By:



Daniel J. Brown
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: August 18, 2022

Respectfully submitted,
STANSBURY BROWN LAW, PC

By:



Daniel J. Brown
Attorneys for Plaintiff