

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: David Sotelo

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NERY BU

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

NERY BU, an individual,

Plaintiff,

v.

FST MANAGEMENT GROUP, LLC, a limited  
liability company; FASTRUCKING.COM,  
LLC, a limited liability company; and DOES 1  
through 20, inclusive,

Defendants.

Case No. **22STCV33384**

**COMPLAINT FOR DAMAGES FOR:**

- 1. FAILURE TO PAY WAGES (CAL. LABOR CODE §§201, 1194);**
- 2. FAILURE TO PAY OVERTIME AND DOUBLETIME COMPENSATION (CAL. LABOR CODE §§510, 1194);**
- 3. FAILURE TO PROVIDE MEAL PERIODS (FAILURE TO PAY WAGES FOR MISSED MEAL PERIODS) (I.W.C. WAGE ORDER NO. 4-2001, CAL. LABOR CODE §§512, 226.7);**
- 4. FAILURE TO PROVIDE REST PERIODS (FAILURE TO PAY WAGES FOR MISSED REST PERIODS) (I.W.C. WAGE ORDER NO. 4-2001, CAL. LABOR CODE §§226.7);**
- 5. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);**
- 6. WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);**
- 7. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS (CAL. LABOR CODE §1198.5); and,**

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**8. UNFAIR COMPETITION (BUS. & PROF.  
CODE §17200 ET SEQ.);**

**DEMAND OVER \$25,000**

**[DEMAND FOR JURY TRIAL]**

**COMES NOW PLAINTIFF, NERY BU,** and for causes of action against the Defendants and each of them, alleges as follows:

**JURISDICTION**

1. This Court is the proper court, and this action is properly filed in Los Angeles County, because Defendants' obligations and liability arise therein, because Defendants maintain offices and transact business within Los Angeles County, and because the work that is the subject of this action was performed by Plaintiff in Los Angeles County.

**THE PARTIES**

2. Plaintiff, NERY BU, is and at all times relevant hereto was a resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant FST MANAGEMENT GROUP, LLC was and is a limited liability company doing business at 2310 E. Gladwick Avenue, Rancho Dominguez, in the County of Los Angeles, State of California.

4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant FASTRUCKING.COM, LLC was and is a limited liability company doing business at 2310 E. Gladwick Avenue, Rancho Dominguez, in the County of Los Angeles, State of California.

5. FST MANAGEMENT GROUP, LLC and FASTRUCKING.COM, LLC are hereinafter collectively referred to as "Employers," or, "Defendants."

6. At all times relevant herein, Defendants and DOES 1-20 were Plaintiff's employers, joint employers and/or special employers within the meaning of the Labor Code and Industrial Welfare

Commission Order No. 4-2001 and are each an “employer or other person acting on behalf of an employer” as such term is used in Labor Code section 558 and/or 558.1, and liable to Plaintiff on that basis.

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

8. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors, coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of 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 employer, alter ego status, successor status and/or joint venture and with the permission and consent of each of the other Defendants.

9. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20, acted in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20, and each of them, 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 cause and actually causing Plaintiff harm.

10. 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.

1                                    **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

2            11.      Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity  
3 of interest and ownership between Employers and DOES 1-20 that the individuality and separateness of  
4 defendants have ceased to exist.

5            12.      Plaintiff is informed and believes, and based thereon alleges, that despite the formation of  
6 purported corporate existence, Employers and DOES 1-20 are, in reality, one and the same, including, but  
7 not limited to because:

8                    a.      Employers are completely dominated and controlled by one another and DOES 1-  
9 20, who personally committed the frauds and violated the laws as set forth in this complaint, and who  
10 have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or accomplish  
11 some other wrongful or inequitable purpose.

12                   b.      Employers and DOES 1-20 derive actual and significant monetary benefits by and  
13 through one another's unlawful conduct, and by using one another as the funding source for their own  
14 personal expenditures.

15                   c.      Employers and DOES 1-20, while really one and the same, were segregated to  
16 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or  
17 accomplishing some other wrongful or inequitable purpose.

18                   d.      Employers do not comply with all requisite corporate formalities to maintain a  
19 legal and separate corporate existence.

20                   e.      The business affairs of Employers and DOES 1-20 are, and at all times relevant  
21 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in  
22 inextricable confusion. Employers are, and at all times relevant hereto were, used by one another and  
23 DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and  
24 were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of  
25 Defendants would not promote justice, in that it would permit Defendants to insulate themselves from  
26 liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate  
27 existence of Employers and DOES 1-20 should be disregarded in equity and for the ends of justice because  
28 such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

13. Accordingly, Employers constitute the alter ego of one another and DOES 1-20, and the fiction of their separate corporate existence must be disregarded.

14. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Employers and DOES 1-20 are Plaintiff's joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of Employers and DOES 1-20. Plaintiff performed services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which Defendants' business was and is conducted.

15. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and between DOES 1-20, Employers, or any of them, (1) there is an express or implied agreement of assumption pursuant to which Employers and/or DOES 1-20 agreed to be liable for the debts of the other Defendants, (2) the transaction between Employer sand/or DOES 1-20 and the other Defendants amounts to a consolidation or merger of the two corporations, (3) Employers and/or DOES 1-20 are a mere continuation of the other Defendants, or (4) the transfer of assets to Employers and/or DOES 1-20 is for the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employers and/or DOES 1-20 are the successors of one or more of the other Defendants and are liable on that basis.

## FACTUAL ALLEGATIONS

16. On or about February 17, 2018, Plaintiff began working for Defendants as a Dispatcher. Plaintiff was a non-exempt, full-time employee, until on or about December 19, 2021.

17. From approximately October 1, 2018, through approximately December 19, 2021, Plaintiff's hourly wage rate was \$23.00. During this time period, Plaintiff's fixed schedule was and is 6 to 7 days per week for approximately 10 to 16 hours per day. On several occasions, Plaintiff was required to work up to 28 hour a day.

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1           18. Throughout Plaintiff's employment, Plaintiff worked approximately 32 overtime hours  
2 each week but was not paid the requisite overtime rate for approximately 20 of these overtime hours.  
3 Additionally, Plaintiff worked approximately 8 doubletime hours each week but was not paid the requisite  
4 doubletime rate for approximately 4 of these doubletime hours. Instead, Defendants paid Plaintiff a "flat  
5 rate" fee based on Plaintiff's hourly rate of \$23.00.

6           19. Throughout Plaintiff's employment, Plaintiff did not receive uninterrupted statutory 30-  
7 minute meal periods for days on which Plaintiff worked at least 5 hours, or substantial portion thereof,  
8 which was each day Plaintiff worked.

9           20. Throughout Plaintiff's employment, Plaintiff was also not permitted to, and not advised of  
10 Plaintiff's right to take statutory 10-minute rest breaks for every four hours worked, or substantial portion  
11 thereof, which was each day Plaintiff worked.

12           21. Throughout Plaintiff's employment, for each pay period, Plaintiff received inaccurate  
13 paystubs that did not comply with Labor Code §226, because the paystubs failed to show the number of  
14 hours worked by Plaintiff, failed to show the number of overtime and doubletime hours worked by  
15 Plaintiff, failed to show pay for missed meal and rest periods, as well as failed to show the true amount  
16 of wages earned and owed to Plaintiff.

17           22. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,  
18 commissions, benefits and loss or diminution of earning capacity, attorneys' fees, and costs of suit, plus  
19 interest.

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21                                   **FIRST CAUSE OF ACTION**

22                                   **FOR FAILURE TO PAY WAGES DUE**

23                                   **LABOR CODE §§201, 1182.12, 1194, 1194.2**

24                                   **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

25           23. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as  
26 though set forth in full herein.

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1           24.     At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and  
2 required by 8 Code of Regulations §11040, as set forth hereinabove. As alleged herein, Defendants  
3 routinely failed to pay Plaintiff for worked hours, doubletime hours and meal break premium hours.

4           25.     As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8  
5 Code of Regulations §11040, and Industrial Welfare Commission Order No. 4-2001.

6           26.     Plaintiff has been deprived of his rightfully earned compensation as a direct and proximate  
7 result of Defendants' failure and refusal to pay said compensation. Thus, he is entitled to recover such  
8 amounts, plus interest thereon, attorneys' fees and costs.

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10                               **SECOND CAUSE OF ACTION**  
11                               **FOR FAILURE TO PAY OVERTIME AND DOUBLETIME COMPENSATION**  
12                               **CAL. LABOR CODE §§510, 1194**  
13                               **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

14           27.     Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though  
15 set forth in full herein.

16           28.     Labor Code §510 requires employers to pay their non-exempt employees one and one-half  
17 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40  
18 hours per week, and double their regular hourly rate (doubletime) for all hours worked in excess of 12  
19 hours in a single day. It also requires employers to pay their non-exempt employees overtime  
20 compensation for the first eight hours of work done on the seventh consecutive day of work done in any  
21 work week and double-time compensation for any work done beyond the first eight hours on the seventh  
22 consecutive day of work.

23           29.     At all relevant times, Defendants required Plaintiff to work more than eight hours per day  
24 and/or more than 40 hours per workweek.

25           30.     At all relevant times, Defendants failed and refused to pay Plaintiff all the doubletime  
26 compensation required by Labor Code §510, the applicable 8 Code of Regulations section, and Industrial  
27 Welfare Commission Order No. 4-2001.

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1           31. At all relevant times, Plaintiff worked approximately 32 hours of overtime each week.  
2 Defendants failed to pay Plaintiff 1.5 times his hourly rate for all of his overtime hours worked, and  
3 instead paid Plaintiff a “flat rate” fee for approximately 20 overtime hours a week based on Plaintiff’s  
4 hourly wage rate. All of Plaintiff’s overtime hours should have been paid at 1.5 times Plaintiff’s hourly  
5 wage rate. Defendants failed to pay Plaintiff the requisite overtime wages in the following way:

6           32. From approximately October 1, 2018, through approximately December 19, 2021, Plaintiff  
7 worked approximately 20 hours of overtime each week for which he was paid a flat rate fee based on  
8 Plaintiff’s \$23.00 per hour, but the overtime rate for his hourly wage rate was \$34.50. Therefore, Plaintiff  
9 is owed overtime wages of \$11.50 (\$34.50 - \$23.00) for each of those 20 hours for 168 weeks, totaling  
10 approximately \$38,640.00.

11           33. Additionally, Plaintiff worked approximately 8 hours of doubletime each week.  
12 Defendants failed to pay Plaintiff 2 times his hourly rate for all of his double hours worked, and instead  
13 paid Plaintiff a “flat rate” fee for approximately 4 doubletime hours a week based on Plaintiff’s hourly  
14 wage rate. All of Plaintiff’s doubletime hours should have been paid at 2 times Plaintiff’s hourly wage  
15 rate. Defendants failed to pay Plaintiff the requisite doubletime wages in the following way:

16           34. From approximately October 1, 2018, through approximately December 19, 2021, Plaintiff  
17 worked approximately 4 hours of doubletime each week for which he was paid a flat rate fee at \$23.00  
18 per hour, but the doubletime rate for his hourly wage rate was \$46.00. Therefore, Plaintiff is owed  
19 doubletime wages of \$23.00 (\$46.00 - \$23.00) for each of those 4 hours for 168 weeks, totaling  
20 approximately \$15,456.00.

21           35. As alleged herein, Plaintiff is not exempt from the overtime and doubletime pay  
22 requirements of Labor Code §510, the applicable 8 Code of Regulations section, and Industrial Welfare  
23 Commission Order No. 4-2001.

24           36. Plaintiff has been deprived of Plaintiff’s rightfully earned overtime and doubletime  
25 compensation as a direct and proximate result of Defendants’ failure and refusal to pay said compensation.

26           37. Thus, for the entirety of the time period set forth above, Plaintiff is entitled to recover  
27 \$54,096.00, pursuant to Labor Code §510, plus interest thereon and costs of suit.

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1 **THIRD CAUSE OF ACTION**

2 **FOR FAILURE TO PROVIDE MEAL BREAKS**

3 **I.W.C. WAGE ORDER NO. 4-2001, LABOR CODE §§512, 226.7**

4 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

5 38. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as  
6 though set forth in full herein.

7 39. Labor Code §§512, 226.7 require employers to provide every employee with an  
8 uninterrupted meal period of not less than 30 consecutive minutes, for every period of work exceeding  
9 five hours.

10 40. In the four years last past, Plaintiff regularly worked in excess of five hours per day and  
11 was thereby entitled to take uninterrupted 30-minute meal periods.

12 41. Defendants failed and refused to provide Plaintiff with meal periods, and failed to  
13 compensate Plaintiff for missed meal periods, as required by Labor Code §512 and the applicable sections  
14 of 8 Code of Regulations §11040 and Industrial Welfare Commission Order No. 4-2001, as follows:

15 42. From approximately October 1, 2018, through approximately December 19, 2021,  
16 Plaintiff's statutory 30-minute meal periods were interrupted, cut short, or taken at or after the 5th hour,  
17 approximately 6 times per week for 168 weeks, or on approximately 1,008 separate days.

18 43. As alleged herein, Plaintiff is not exempt from the meal break requirements of 8 Code of  
19 Regulations §11040 and Industrial Welfare Commission Order No. 4-2001. Consequently, Plaintiff is  
20 owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage, whichever  
21 is greater, for each day that Plaintiff was denied such meal periods, calculates as follows:

22 44. From approximately October 1, 2018, through approximately December 19, 2021,  
23 Defendants failed to provide Plaintiff with an uninterrupted statutory meal period, interrupted, cut short,  
24 or required Plaintiff to take the statutory meal period at or after the 5th hour, for those days on which  
25 Plaintiff worked at least five hours on approximately 1,008 separate days. Consequently, Plaintiff is owed  
26 one hour of pay at \$23.00 for each day, or approximately \$23,184.00, plus interest thereon, for unpaid  
27 interrupted statutory meal periods.

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1           45. Plaintiff has been deprived of his rightfully earned compensation for meal breaks as a  
2 direct and proximate result of Defendants' failure and refusal to pay said compensation.

3           46. Thus, for the entirety of the time period set forth above, Plaintiff is entitled to recover  
4 \$23,184.00, pursuant to Labor Code §512, plus interest thereon and costs of suit.

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6                                   **FOURTH CAUSE OF ACTION**  
7                                   **FOR FAILURE TO PROVIDE REST BREAKS**  
8                                   **I.W.C. WAGE ORDER NO. 4-2001, LABOR CODE § 226.7**  
9                                   **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

10           47. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as  
11 though set forth in full herein.

12           48. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted  
13 rest period of not less than 10 minutes, for every period of work exceeding five hours.

14           49. In the four years last past, Plaintiff regularly worked in excess of 4 hours per day and was  
15 thereby entitled to take timely and uninterrupted 10-minute rest periods on each day he worked.  
16 Nevertheless, Plaintiff was not permitted to, and not advised of his right to take the statutory rest periods  
17 to which he was entitled.

18           50. Defendants failed and refused to provide Plaintiff with rest periods, and failed to  
19 compensate Plaintiff for missed rest periods, as required by Labor Code §226.7(b) and the applicable  
20 sections of 8 Code of Regulations §11040 and Industrial Welfare Commission Order No. 4-2001, as  
21 follows:

22           51. From approximately October 1, 2018, through approximately December 19, 2021, Plaintiff  
23 was not permitted and not advised of his right to take one or more of his statutory 10-minute rest periods  
24 for days on which Plaintiff worked for at least four hours, which was each day Plaintiff worked,  
25 approximately 6 times per week for 168 weeks, or on approximately 1,008 separate days.

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1           52. As alleged herein, Plaintiff is not exempt from the rest break requirements of 8 Code of  
2 Regulations §11040 and Industrial Welfare Commission Order No. 4-2001. Consequently, Plaintiff is  
3 owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage, whichever  
4 is greater, for each day that Plaintiff was denied such rest periods, calculated as follows:

5           53. From approximately October 1, 2018, through approximately December 19, 2021,  
6 Defendants failed to provide Plaintiff with the statutory rest period for those days on which he worked at  
7 least four hours on approximately 1,008 separate days. Consequently, Plaintiff is owed one hour of pay  
8 at \$23.00 for each day, or \$23,184.00, plus interest thereon, for unpaid rest periods.

9           54. Plaintiff has been deprived of his rightfully earned compensation for rest breaks as a direct  
10 and proximate result of Defendants' failure and refusal to pay said compensation.

11           55. Thus, for the entirety of the time period set forth above, Plaintiff is entitled to recover an  
12 amount of \$23,184.00, pursuant to Labor Code § 226.7(b), plus interest thereon and costs of suit.

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14                               **FIFTH CAUSE OF ACTION**  
15                               **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**  
16                               **(CAL. LABOR CODE §§226, ET SEQ.)**  
17                               **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

18           56. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though  
19 set forth in full herein.

20           57. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-  
21 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages, total  
22 deductions and net wages earned. An employer who violates these code sections is liable to its employees  
23 for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the initial pay  
24 period in which a violation occurred, and \$100.00 per employee for each subsequent pay period, up to a  
25 statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is deemed to suffer  
26 injury for purposes of this subdivision if the employer fails to provide a wage statement at all.

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1           58.     In addition, thereto, pursuant to Labor Code §226.3, an employer who willfully violates  
2 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation  
3 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

4           59.     At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate  
5 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net  
6 wages earned, and all applicable hours and rates in effect during each pay period and the corresponding  
7 number of hours worked at each hourly rate by Plaintiff. Not one of the paystubs that Plaintiff received  
8 complied with Labor Code §226, and contained almost none of the required information, including hours  
9 actually worked.

10          60.     As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

11          61.     This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,  
12 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in  
13 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled  
14 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating  
15 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting  
16 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to doubletime,  
17 meal period wages. For the time periods that Plaintiff was not provided with paystubs at all, Plaintiff's  
18 aforementioned injuries are presumed as a matter of law.

19          62.     Plaintiff was paid on a weekly basis, and therefore Defendants violated Labor Code §226  
20 approximately 26 times during the last year that Plaintiff has worked for Defendants. Consequently,  
21 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum  
22 amount of \$4,000.00, whichever is greater.

23          63.     In addition, thereto, for Defendants' 26 violations, Defendants are penalized \$250.00 for  
24 the first violation, and the remainder of which Defendants are penalized \$1,000.00 each, for a total due in  
25 Labor Code §226.3 penalties of \$25,250.00 (\$250.00 + \$1,000.00 x 25 subsequent pay periods).

26          64.     Based on Defendants' conduct as alleged herein, Defendants are liable for damages and  
27 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other  
28 applicable provisions, as well as attorneys' fees and costs.

1                                   **SIXTH CAUSE OF ACTION**  
2                                   **FOR WAITING TIME PENALTIES**

3                                   **LABOR CODE §§201-203**  
4                                   **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

5           65.   Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as  
6 though set forth in full herein.

7           66.   At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and other  
8 compensation due immediately upon termination or within 72 hours of resignation, as required. These  
9 wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest period  
10 compensation that Defendants should have paid, but did not pay to Plaintiff during the term of Plaintiff's  
11 employment and which were, at the latest, due within the time restraints of Labor Code §§201-203.

12          67.   As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-  
13 203.

14          68.   As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff  
15 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and  
16 more than \$5,520.00 in wait time penalties, calculated based on 30 days of regular weekly wages (\$23.00  
17 hourly rate x 8 hours per day x 30 days).

18          69.   Based on Defendants' conduct as alleged herein, Defendants are liable for \$3,840.00 in  
19 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'  
20 fees and costs.

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22                                   **SEVENTH CAUSE OF ACTION**  
23                                   **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**

24                                   **LABOR CODE §1198.5**  
25                                   **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

26          70.   Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as  
27 though set forth in full herein.

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1           71. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request  
2 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's  
3 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

4           72. On January 28, 2022, and again on March 1, 2022, Plaintiff made a written request to  
5 inspect or receive a copy of Plaintiff's personnel and payroll records from Employer Defendant, which  
6 Employer Defendant received.

7           73. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and  
8 payroll records and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within  
9 the time required by Labor Code §1198.5, or ever.

10          74. As a result of Defendants' failure and refusal to comply with Labor Code §1198.5, Plaintiff  
11 is entitled to recover from Defendants a civil penalty of \$750.00.

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13                                   **EIGHTH CAUSE OF ACTION**  
14                   **FOR UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.)**  
15                   **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

16          75. Plaintiff re-alleges and incorporates by reference the above-stated Paragraphs as though  
17 set forth in full herein.

18          76. Defendants' violations of the applicable 8 Code of Regulations section, Industrial Welfare  
19 Commission Order No.4-2001, the above-stated Labor Code sections, 2699, and other applicable  
20 provisions, as alleged herein, including Defendants' failure and refusal to pay wages, overtime wages,  
21 doubletime wages, failure to provide meal periods, failure to provide rest periods, and failure to provide  
22 timely and accurate wage and hour statements, constitute unfair business practices in violation of Business  
23 & Professions Code §§17200, et seq.

24          77. As a result of Defendants' unfair business practices, Defendants have reaped unfair  
25 benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be  
26 made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

27          78. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent  
28 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore

1 to the Plaintiff the doubletime compensation and other monies and benefits unlawfully withheld from  
2 Plaintiff.

3  
4 **PRAYER FOR RELIEF**

5 1. For a monetary judgment representing compensatory damages including lost wages,  
6 earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,  
7 together with interest on these amounts; for other special damages; and for general damages for mental  
8 pain and anguish and emotional distress and loss of earning capacity to be ascertained at trial;

9 2. For restitution of all monies due to Plaintiff, as well as disgorged profits from  
10 Defendants' unfair and unlawful business practices;

11 3. For payment of unpaid wages pursuant to 8 Code of Regulations §11040;

12 4. For payment of unpaid overtime and doubletime compensation pursuant to Labor Code  
13 §§201, 510, 1194, Industrial Welfare Commission Order No. 4-2001, and the applicable 8 Code of  
14 Regulations section, in the amount of no less than \$54,096.00;

15 5. For payment of meal period compensation pursuant to Labor Code §226.7, 512, in the  
16 amount of no less than \$23,184.00;

17 6. For payment of rest period compensation pursuant to Labor Code §§226.7, 512 in the  
18 amount of no less than \$23,184.00;

19 7. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;

20 8. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no less  
21 than \$25,250.00;

22 9. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less  
23 than \$5,520.00;

24 10. For statutory penalties pursuant to Labor Code §1198.5 in the amount of no less than  
25 \$750.00;

26 11. For prejudgment interest on each of the foregoing at the legal rate from the date the  
27 obligation became due through the date of judgment in this matter.

28 ///

1           12.     For costs of suit, attorneys' fees, and expert witness fees pursuant to the Labor Code and/or  
2 any other basis;

3           13.     For post-judgment interest; and

4           14.     For any other relief that is just and proper.

5  
6 DATED: October 12, 2022

7  
8 By:



Jace H. Kim, Esq.  
Carlos Andres Perez, Esq.  
Javier Ramirez, Esq.  
Attorneys for Plaintiff,  
NERY BU

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13 **JURY TRIAL DEMANDED**

14 Plaintiff demands trial of all issues by jury.

15 DATED: October 12, 2022

16  
17  
18 By:



Jace H. Kim, Esq.  
Carlos Andres Perez, Esq.  
Javier Ramirez, Esq.  
Attorneys for Plaintiff,  
NERY BU