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Attorneys for Plaintiff, DANIEL CRUZ JURADO, individually and on behalf of all others similarly situated,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DANIEL CRUZ JURADO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

PLANTASIA INC.; and DOES 1 to 100,
inclusive,

Defendants.

Case No: **22STCV18413**

**CLASS ACTION AND REPRESENTATIVE
ACTION COMPLAINT:**

(1) FAILURE TO PAY TIMELY WAGES

(LABOR CODE §§ 204, 210);

(2) FAILURE TO PROVIDE TIMELY, DUTY-

FREE MEAL PERIODS AND/OR PAY MEAL

PERIOD PREMIUMS FOR LATE MEAL

BREAKS (LABOR CODE §§ 226.7, 512; IWC

Wage order 16-2001);

(3) FAILURE TO PROVIDE TIMELY,

DUTY-FREE REST PERIODS AND/OR

PAY REST PERIOD PREMIUMS (LABOR

CODE § 226.7; IWC WAGE ORDER 16-

2001);

(4) WAITING TIME PENALTIES (LABOR

CODE § 201 – 203);

(5) FAILURE TO REIMBURSE BUSINESS

EXPENSES;

(6) UCL VIOLATIONS (BUS. & PROF. CODE

§§ 17200-17204);

DEMAND FOR JURY TRIAL

1 Plaintiff Daniel Cruz Jurado (“Plaintiff”), alleges and complains on his behalf individually
2 and on behalf of all others similarly situated (hereinafter “Class Members”) as follows:

3 OVERVIEW OF CLAIMS

4 1. Plaintiff brings this action as a class action, against Defendant Plantasia Inc. a
5 California Corporation and DOES 1 to 100 (“Defendant”) for its (1) failure to pay all wages due to
6 employees based on a timely basis; (2) failure to provide timely and duty-free meal periods within
7 the first five (5) hours of work and/or to pay a meal period for each missed, untimely, or interrupted
8 meal period and to provide lawful second (2nd) meal periods for shifts worked in excess of ten (10)
9 hours and/or pay meal period premiums for missed, untimely, or interrupted second meal breaks; (3)
10 failure to provide timely, duty-free rest periods for every four (4) hours of work or major fraction
11 thereof and/or failure to pay rest period premiums for missed or interrupted rest breaks; (4) failure to
12 timely pay former employees’ wages, particularly final wages, based on the foregoing; (5) failure to
13 reimburse business expenses; and (6) Violations of California’s Business and Professions Code
14 section 17200, et seq. based on the foregoing. As a result of the foregoing, Defendant has violated
15 California statutory laws and is subject to myriad damages and penalties as set forth more fully below.

16 2. The “Class Period” is designated as the period from four years prior to the filing of
17 this action through the trial date.

18 VENUE

19 3. Venue is proper in this County pursuant California Code of Civil Procedure section
20 395.5. Many, if not all, of the putative Class Members were employed and/or performed work by and
21 for Defendant in Los Angeles County during the Class Period. Defendant’s main business is located
22 in the City of Los Angeles that is situated within Los Angeles County. Many of the acts alleged in
23 this Complaint, including but not limited to, Defendant’s practice of failing to provide timely wages,
24 failure to provide duty-free meal and rest periods and its attendant practice of failing to pay meal and
25 rest period premiums all occurred in Los Angeles County. Venue is therefore proper in Los Angeles
26 County.

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THE PARTIES

5. Plaintiff Daniel Cruz Jurado is a California resident who lives in Los Angeles. Plaintiff was employed by Defendant as a landscaper. Plaintiff was paid an hourly rate during the relevant time period. Plaintiff's hourly rate was sixteen dollars (\$16.00) an hour. Plaintiff had been employed by the Defendant from on or around 2019, until May 14, 2021, in the County of Los Angeles. As a non-exempt employee, Plaintiff was entitled to rest periods, meal breaks and overtime pay, Industrial Wage Order No. 4-2001, ("IWC No.4-2001") Labor Code sections 512, 226, and 226.7. Plaintiff and the Class Members were not provided with timely and duty-free meal and rest periods and/or provided meal and rest period premiums. Plaintiff and the Class Members did not receive all of their wages due upon termination of employment, and they did not timely receive all wages owed. Plaintiff and the Class Members were not reimbursement for their necessary business expenses either.

6. Defendant Plantasia, Inc. is a California corporation that provides landscaping services to citizens of the state of California and whose facilities are located in Los Angeles County, in the city of Palos Verdes Estates, and was the employer of Plaintiff and the Class Members during

1 the Liability Period. Among the various staff working at Defendant's facilities, Plaintiff was
2 employed as a landscaper on an hourly or non-exempt basis.

3 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
4 of Defendants sued herein as DOES 1 to 100, inclusive, are currently unknown to Plaintiff, who
5 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
6 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
7 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek
8 leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
9 designated hereinafter as DOES when such identities become known.

10 8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
11 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
12 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
13 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
14 employer and/or joint employer of Plaintiff, and the Class.

15 9. Defendant was and is the employer of Plaintiff, and Class Members for all relevant
16 time periods. At any one time during the Class Period, Defendant employed approximately fifty (50)
17 non-exempt individuals in California. Due to turnover during the Class Period, the total number of
18 Class Members is estimated to be over one hundred fifty (150).

19 **FACTUAL ALLEGATIONS**

20 10. Labor Code § 512 requires employers to provide employees with a thirty (30) minute
21 uninterrupted and duty-free meal period within the first five (5) hours of an employee's shift.
22 Moreover, an employee who works more than ten (10) hours per day is entitled to receive a second
23 thirty (30) minute uninterrupted and duty-free meal period.

24 11. Under Labor Code § 512, if an employer maintains a uniform policy that does not
25 authorize and permit the employee to take a 30-minute duty-free meal period on or before the fifth
26 (5th) hour of work, liability attaches from adopting an unlawful policy.

27 ///

12. Here, Defendant violated and continues to violate Labor Code § 512 and IWC Wage Order 16-2001 § 11 by, among other things, failing to provide and schedule timely and duty-free meal breaks on or before the fifth (5th) hour of work and failed to pay meal break premiums for late meal breaks. Instead, Defendant often required Plaintiff and Class Members to take their meal breaks at the end of their shifts without paying any late meal break premiums. As a result of Defendant's failure to authorize or permit lawful and timely meal periods, Plaintiff and the other Class Members and Aggrieved Employees frequently did not receive compliant duty-free meal periods within the first five (5) hours of their work. Furthermore, when Defendant paid missed or late meal break premiums, thereby admitting to 226.7 and 512 violations.

13. Under Labor Code § 226.7, if an employer maintains a uniform policy that does not authorize and permit the amount of rest time on the schedule called for under the law (as specified in Section 12 of the applicable Wage Order), "it has violated the wage order and is liable." The *Brinker* Court explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required—**it has violated the wage order and is liable.** (*Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1033.) [emphasis added].

14. Here, Defendant failed and/or refused to authorize Plaintiff and Class Members, to take their ten-minute rest breaks during each four (4) hours of work or major fraction thereof during their shifts. Moreover, Defendant's scheduling practices were often rest break preclusive.

15. Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;
- (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
- (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (5) net wages earned;
- (6) the inclusive dates of the period for which the employee is paid;
- (7) the name of the employee and only the last four digits of his or her social security

- number or an employee identification number other than a social security number;
(8) the name and address of the legal entity that is the employer...; and,
(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

16. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these requirements are “deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

17. Due to Defendant’s failure to pay Plaintiff, and the Class, the timely wages, all meal and rest break period premiums owed,¹ Defendant violated Labor Code § 204 by failing to pay all wages due within seven (7) days of the close of the payroll period on a regular and consistent basis. *See Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at *3-5 (N.D. Cal. May 2, 2016) (finding after *Ling* that a failure to pay rest period premiums can support claims under Labor Code §§ 203 and 204).

18. Labor Code § 210 provides that “in addition to, an entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100.00) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200.00) for each failure to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the faulty compensation policies and practices described in detail above, Plaintiff, and the Class, are entitled to recover penalties under Labor Code § 210.

19. Labor Code § 203 provides “if an employer willfully fails to pay . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty. . .” for up to 30 days. Lab. Code § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

20. Due to Defendant’s faulty policies described above, including its failure to pay for all meal and rest break premiums due, Defendant violated Labor Code § 203, for those employees

¹ See *Naranjo v. Spectrum Security Services, Inc.*, Cal. Supreme Court Case No. S258966.

1 whose employment ended within the last three (3) years and ongoing by willfully failing to pay them
2 all wages due upon the termination of their employment.

3 **CLASS ACTION ALLEGATIONS**

4 21. This action may be properly maintained as a class action pursuant to the provisions
5 of California Code of Civil Procedure § 382.

6 22. Plaintiff brings this action, as a class action, on behalf of himself and of the class of
7 individuals and all others similarly situated, who are defined as: “All non-exempt individuals who or
8 were employed by Defendant through the Class Period and ending with the date of notice to the
9 Class”; (hereinafter referred to as “Class Members” or the “Class”). In addition, Plaintiff may seek
10 to certify as a subclass of all Class Members who are no longer employed by Defendant. Plaintiff
11 further reserves the right to amend or modify the Class description or establish additional subclasses
12 as appropriate.

13 23. This action has been brought and may properly be maintained as a class action under
14 Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation,
15 the proposed class is easily ascertainable, and Plaintiff is a proper representative of the Class:

16 a. Numerosity: The potential members of the Class as defined are so numerous
17 that joinder of all the members of the Class is impracticable. While the precise number of Class
18 Members has not been determined at this time, Plaintiff is informed and believes that Defendant has
19 on average, at any one time during the Class Period employed over one hundred fifty (150) Class
20 Members as non-exempt employees who were subject to Defendant’s unlawful policies. Due to
21 turnover, the total number of Class Members is estimated to be more than one hundred fifty (150.)
22 The Class Members are dispersed throughout California. Joinder of all members of the proposed
23 classes is therefore not practicable.

24 b. Commonality: There are questions of law and fact common to Plaintiff and
25 the Class that predominate over any questions affecting only individual members of the Class. These
26 common questions of law and fact include, without limitation:

27 i. Whether Defendant violated Labor Code sections 226.7 and 512 and Section
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11 of IWC Wage Order No. 16 by failing to provide timely, duty-free meal periods to Plaintiff and Class Members in California during the Class Period;

ii. Whether Defendant violated Labor Code section 226.7 by failing to provide one (1) hour of premium pay to each Class Member for each day that a timely, duty-free meal period was not provided in California during the Class Period;

iii. Whether Defendant violated Labor Code section 226.7 and Section 12 of IWC Wage Order No. 16 by failing to provide timely, duty-free rest periods to Plaintiff and Class Members in California during the Class Period;

iv. Whether Defendant violated Labor Code section 226.7 by failing to provide one hour of premium pay to each Class Member for each day that a timely, duty-free rest period was not provided in California during the Class Period;

v. Whether Defendant violated Section 203 of the Labor Code by failing to pay Plaintiff and Class Members all wages due to them (including their unpaid meal and rest break premiums) upon their separation of employment from Defendant;

vi. Whether Defendant violated Sections 204 and 210 of the Labor Code by failing to pay Class Members all wages due on a timely basis;

vii. Whether Defendant violated Sections 510 of the Labor Code by failing to pay Class Members all overtime wages;

viii. Whether Defendant violated Sections 2802 of the Labor Code by failing to reimburse Class Members for all their necessary business reimbursement;

ix. Whether Defendant engaged in an unfair practice and violated section 17200 of the California Business and Professions Code by failing to provide Plaintiff and Class Members with timely, duty-free meal breaks during the Class Period;

x. Whether Defendant engaged in an unfair practice and violated section 17200 of the California Business and Professions Code by failing to provide Plaintiff and Class Members with meal period premiums for each day they were not provided a compliant meal break;

xi. Whether Defendant engaged in an unfair practice and violated section 17200

of the California Business and Professions Code by failing to provide Plaintiff and Class Members with timely, duty-free rest breaks during the Class Period;

xii. Whether Defendant engaged in an unfair practice and violated section 17200 of the California Business and Professions Code by failing to provide Plaintiff and Class Members with rest period premiums for each day they were not provided a compliant meal break;

xiii. Whether Plaintiff and the Class are entitled to restitution under Business and Professions Code § 17200;

xiv. The proper formula(s) for calculating damages, interest, and restitution owed to Plaintiff and the Class Members;

xv. The nature and extent of class-wide damages.

c. Typicality: Plaintiff's claims are typical of the claims of the Class. Both Plaintiff and Class Members sustained injuries and damages, and were deprived of property rightly belonging to them, arising out of and caused by Defendant's common course of conduct in violation of law as alleged herein, in similar ways and for the same types of unpaid wages.

d. Adequacy of Representation: Plaintiff is a member of the Class and will fairly and adequately represent and protect the interests of the Class and Class Members. Plaintiff's interests do not conflict with those of Class and Class Members. Counsel who represents Plaintiff are competent and experienced in litigating large wage and hour class actions, including numerous cases virtually identical to this one (i.e., wage and hour class action cases), and other employment class actions, and will devote sufficient time and resources to the case and otherwise adequately represent the Class and Class Members.

e. Superiority of Class Action: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each Class Member has been damaged or may be damaged in the future by reason of Defendant's unlawful policies and/or practices. Certification of this case as a class action will allow those similarly situated persons to litigate their

1 claims in the manner that is most efficient and economical for the parties and the judicial system.
2 Certifying this case as a class action is superior because it allows for efficient and full disgorgement
3 of the ill-gotten gains Defendant has enjoyed by maintaining its unlawful break and compensation
4 policies and will thereby effectuate California's strong public policy of protecting employees from
5 deprivation or offsetting of compensation earned in their employment. If this action is not certified
6 as a Class Action, it will be impossible as a practical matter, for many or most Class Members to
7 bring individual actions to recover monies unlawfully withheld from their lawful compensation due
8 from Defendant, due to the relatively small amounts of such individual recoveries relative to the costs
9 and burdens of litigation.

10
11 **FIRST CAUSE OF ACTION**
FAILURE TO PAY WAGES ON A TIMELY BASIS
[Cal. Labor Code §§ 204, 210]

12 24. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
13 in the preceding paragraph.

14 25. Labor Code § 204 expressly requires that "[a]ll wages...earned by any person in any
15 employment are due and payable twice during each calendar month, on days designated in advance
16 by the employer as the regular paydays." Pursuant to Labor Code § 204(d), these requirements are
17 "deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the wages
18 are paid not more than seven calendar days following the close of the payroll period.

19 26. Defendant had a policy and procedure to pay Plaintiff and Class Members within ten
20 (10) days after the end of the pay period in violation of the Labor Code §204.

21 27. Due to Defendant's failure to pay Plaintiff and Class Members on a timely fashion,
22 all meal and rest break period premiums owed,² Defendant violated Labor Code § 204 by failing to
23 pay all wages due within seven (7) days of the close of the payroll period on a regular and consistent
24 basis. *See Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at *3-
25 5 (N.D. Cal. May 2, 2016) (finding after *Ling* that a failure to pay rest period premiums can support
26 claims under Labor Code §§ 203 and 204).

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28 ² See *Naranjo v. Spectrum Security Services, Inc.*, Cal. Supreme Court Case No. S258966.

28. Labor Code § 210 provides that “in addition to, an entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100.00) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200.00) for each failure to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the faulty compensation policies and practices described in detail above, Plaintiff and Class Members are entitled to recover penalties under Labor Code § 210.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE TIMELY AND DUTY-FREE MEAL BREAKS AND PAY
MISSED MEAL BREAK PREMIUMS
[Cal. Labor Code §§ 226.7, 512; IWC Wage Order 16-2001 Section 11]
Against Defendant

29. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

30. California Labor Code § 226.7(a) provides, “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

31. Section 512(a) of the California Labor Code provides, in relevant part, that: An employer may not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than 30-minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second (2nd) meal period of not less than 30-minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived

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32. Here, Defendant violated and continues to violate Labor Code § 512 and IWC Wage Order 16-2001 § 11 by, among other things, failing to provide and schedule duty-free meal breaks on or before the fifth (5th) hour of work for Plaintiff and Class Members and failed to advise Plaintiff and Class Members of their meal break rights with respect to the timing of meal breaks, failed to provide Plaintiff and Class Members with thirty (30) minute, uninterrupted meal periods within the first five (5) hours of their shifts, and failed to pay meal break premiums for late meal breaks. Instead, Defendant often required Plaintiff and Class Members to take their breaks at the end of their shifts without paying any late meal break premiums. As a result of Defendant's failure to authorize or permit lawful and timely meal periods, Plaintiff and Class Members frequently did not receive compliant duty-free meal periods within the first five (5) hours of their work.

THIRD CAUSE OF ACTION
FAILURE TO PROVIDE TIMELY AND DUTY-FREE REST BREAKS
AND PAY MISSED REST BREAK PREMIUMS
[Cal. Labor Code §§ 226.7; Section 12 of IWC Wage Order 16-2001]
Against Defendant

33. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

34. Under Labor Code § 226.7, if an employer maintains a uniform policy that does not authorize and permit the amount of rest time on the schedule called for under the law (as specified in Section 12 of the applicable Wage Order), "it has violated the wage order and is liable." The *Brinker* Court explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one (1) rest break for employees working a seven (7) hour shift when two (2) are required—***it has violated the wage order and is liable.***

(*Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1033.) [emphasis added].

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35. Here, Defendant did not authorize Plaintiff and Class Members to take their ten (10)-minute rest breaks during each four (4) hours of work or major fraction thereof during their shifts. Plaintiff and Class Members did not receive timely rest breaks during their shifts. Accordingly, Defendant is liable to Plaintiff and Class Members for rest break premiums for all such shifts on which they were not able to take compliant rest.

FOURTH CAUSE OF ACTION
WAITING TIME PENALTIES FOR
FAILURE TO PAY WAGES DUE ON TERMINATION
[Cal. Labor Code §§ 201-203]

36. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

37. Labor Code § 203 provides “if an employer willfully fails to pay . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty. . .” for up to 30 days. Lab. Code § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

38. Due to Defendant's unlawful policies described above, including its failure to pay meal and rest break premiums, Defendant violated Labor Code § 203, for those employees Class Members whose employment ended within the last three (3) years and ongoing by willfully failing to pay them all wages due upon the termination of their employment.

FIFTH CAUSE OF ACTION
FAILURE TO REIMBURSE BUSINESS EXPENSES
[Cal. Labor Code § 2802]
On Behalf of Plaintiff and the Class Against Defendant

39. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraph.

40. Pursuant to section 2802(a) of the California Labor Code, “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer....” Labor Code 2802(c) defines necessary to include all “reasonable” expenses. The purpose of this statute is “to prevent employers from passing their operating expenses on to their

employees.” *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 562 (2007) (quoting legislative history from the 2000 amendment to the statute and holding that outside salespersons are entitled to gas mileage reimbursement in addition to their commission pay). Labor Code section 2804 also makes it crystal clear that claims under section 2802 are not waivable.

41. Furthermore, under Labor Code section 2802, employers must reimburse employees for reasonable work-related use of their personal cell phones – regardless of whether or not aggrieved employees incurred any additional out-of-pocket expense from that work-related use. *See, Cochran v. Schwan’s Home Service, Inc.*, 228 Cal.App.4th 1137 (Cal. Aug. 12, 2014) (“We hold that when employees must use their personal cell phones for work-related calls, Labor Code section 2802 requires the employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.”); see also *Aguilar v. Zep, Inc.*, 2014 WL 4245988 *17 (N.D.Cal. Aug. 27, 2014) (granting plaintiffs’ motion for partial summary judgment on the plaintiffs’ cell phone reimbursement claim); *Ritchie v. Blue Shield of California*, 2014 WL 6982943, at *21 (N.D.Cal. Dec. 9, 2014) (Hon. Edward Chen) (adopting the logic of *Cochran*)

42. The employer’s obligation to reimburse all reasonably-incurred business-related expenses, including personal cell phone and laptop-related expenses for work-related usage, arises when the employer “knew or should have known” that its employees incurred a business-related expense. *Stuart v. RadioShack Corp.*, 641 F. Supp. 2d 901, 903 (N.D. Cal. 2009) (Hon. Edward Chen); *Wilson v. Kiewit Pacific Co.*, 2010 WL 5059522 (N.D. Cal. Dec. 6, 2010) (Hon. Susan Illston) (adopting the “knew or should have known” standard). In such cases, including this one, where employees have incurred reasonable work-related cell phone or laptop expenses that the employer is or should have been aware of, an employer in California thus has an affirmative obligation to reimburse expenses and cannot hide behind a policy advising employees to put in for their expenses if they want to be reimbursed for them. *Id.*; see also Labor Code section 2804.

43. Here, Plaintiff and Class Members are and were required to use their cell phone during their shifts and to remain in touch with Defendant. Defendant has no policy or practice for

1 reimbursing its employees for their expenses incurred in using their personal cell phones or mileage
2 reimbursement for work-related purposes and, in fact, Defendant did not reimburse its employees for
3 such expenses.

4 44. Accordingly, Defendant violated Labor Code § 2802 and continues to do so by failing
5 to reimburse Plaintiff and Class Members for all work-related cell phone and mileage expenses they
6 incurred in connection with their job duties.

7 **SIXTH CAUSE OF ACTION**
8 **UNFAIR COMPETITION LAW VIOLATIONS**
9 **(BUS. & PROF. CODE § 17200, ET SEQ.)**
10 **On Behalf of Plaintiff and the Class Against Defendant**

11 45. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
12 in the preceding paragraphs.

13 46. Section 17200 of the California Business & Professions Code prohibits any unlawful,
14 unfair, or fraudulent business practices. Business & Professions Code § 17204 allows “any person
15 who has suffered injury in fact and has lost money or property” to prosecute a civil action for violation
16 of the UCL. Such a person may bring such an action on behalf of themselves, and others similarly
17 situated who are affected by the unlawful, unfair, or fraudulent business practice.

18 47. Under section 17208 of the California Business and Professions Code, the statute of
19 limitations for a claim under Section 17200 is four years. Accordingly, the actionable period for this
20 cause of action is four years prior to the filing of this Complaint through the present, and on-going
21 until the violations are corrected, or the Class is certified.

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

27 49. As a direct and proximate result of Defendant’s unlawful business practices, Plaintiff
28 and Class Members have suffered economic injuries. Defendant has profited from its unlawful, unfair,
and/or fraudulent acts and practices.

1 50. Plaintiff and Class Members are entitled to monetary relief pursuant to Business &
2 Professions Code §§ 17203 and 17208 for unpaid meal and rest period premiums and unreimbursed
3 business expenses due and interest thereon, from at least four (4) years prior to the filing of this
4 complaint through to the date of such restitution, at rates specified by law. Defendant should be
5 required to disgorge all the profits and gains it has reaped and restore such profits and gains to Plaintiff
6 and Class Members, from whom they were unlawfully taken.

7 51. Through its actions alleged herein, Defendant has engaged in unfair competition
8 within the meaning of section 17200 of the California Business & Professions Code, because
9 Defendant's conduct, as herein alleged has damaged Plaintiff and Class Members by wrongfully
10 denying them all meal and rest period premiums due, and therefore was substantially injurious to
11 Plaintiff and Class Members.

12 52. Defendant engaged in unfair competition in violation of sections 17200 et seq. of the
13 California Business & Professions Code by violating Sections 226.7 and 512 of the California Labor
14 Code, and Sections 11 and 12 of the IWC Wage Order 16-2001.

15 53. Defendant's course of conduct, act and practice in violation of the California laws
16 mentioned above constitute independent violations of sections 17200 et seq. of the California
17 Business and Professions Code.

18 54. Plaintiff and Class Members are entitled to enforce all applicable penalty provisions
19 of the Labor Code pursuant to Business & Professions Code § 17202.

20 55. Plaintiff has assumed the responsibility of enforcement of the laws and public policies
21 specified herein by suing on behalf of themselves and Class Members previously or presently
22 employed by Defendant in California. Plaintiff's success in this action will enforce important rights
23 affecting the public interest. Plaintiff will incur a financial burden in pursuing this action in the public
24 interest. Therefore, an award of reasonable attorneys' fees to Plaintiff is appropriate pursuant to Code
25 of Civil Procedure §1021.5.

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1 **JURY DEMAND**

2 56. Plaintiff hereby demand trial by jury of his and the Class's claims against Defendant,
3 and of all claims except for the PAGA and UCL, claims which are subject to a bench trial.

4 **PRAYER FOR RELIEF**

5 Wherefore, Plaintiffs, on behalf of themselves, Class Members and Aggrieved Employees
6 pray for judgment against Defendant as follows:

7 1. An Order than this action may proceed and be maintained as a class action;

8 2. On the First Cause of Action:

9 a. A declaratory judgment that Defendant violated California Labor Code §§
10 204 and 210;

11 b. Pursuant to Labor Code §§ 204 and 210, an award to Plaintiff and Class
12 Members for penalties pursuant to Labor Code § 210.

13 3. On the Second Cause of Action:

14 a. A declaratory judgment that Defendant violated California Labor Code §§
15 226.7, 512 and Section 11 of IWC Wage Order 16-2001;

16 b. Pursuant to Cal. Labor Code § 226.7, an award to Plaintiff and Class Members
17 for an hour of pay for each day that a timely, duty-free meal period was not provided during the Class
18 Period.

19 4. On the Third Cause of Action:

20 a. A declaratory judgment that Defendant violated California Labor Code §
21 226.7, and Section 12 of IWC Wage Order 16-2001;

22 b. Pursuant to Cal. Labor Code § 226.7, an award to Plaintiff and Class Members
23 for an hour of pay for each day that a timely, duty-free rest period was not provided during the Class
24 Period.

25 5. On the Fourth Cause of Action:

26 a. A declaratory judgment that Defendant violated California Labor Code §§
27 201 through 203;

1 b. Pursuant to Cal. Labor Code §§ 201 through 203, an award to Plaintiff and
2 Class Members for waiting time penalties in the amount of 30 days' wages per waiting time Class
3 Member.

4 6. On the Fifth Cause of Action:

5 a. A declaratory judgment that Defendant violated California Labor Code §
6 2802;

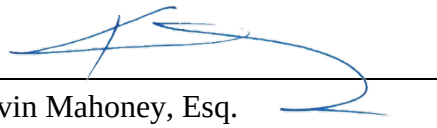
7 7. On the Sixth Cause of Action:

8 a. That the Court find and declare that Defendant have violated the UCL and
9 committed unfair and unlawful business practices by failing to pay meal and rest break premiums;

10 b. Restitution, including, but not limited to, the relief permitted by section 226.7
11 of the California Labor Code (i.e., pay as specified for meal and rest period premiums to Plaintiff and
12 Class Members. All other relief as this Court deems proper.

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14 Dated: June 6, 2022

MAHONEY LAW GROUP, APC

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16 
17 Kevin Mahoney, Esq.
18 Attorneys for Plaintiff DANIEL CRUZ JURADO,
19 individually and on behalf of all others similarly
20 situated June 6, 2022
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