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12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14
15 COUNTY OF LOS ANGELES

16 SANDER GARZO, an individual, and on
17 behalf of himself and all others similarly
18 situated

19 Plaintiff,

20 vs.

21 METRO SERVICES GROUP, a California
22 corporation; and DOES 1 through 50,
23 inclusive,

24 Defendants.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

APR 22 2016

Sherri R. Carter, Executive Officer/Clerk
By M. Soto, Deputy
Moses Soto

CASE NO.: **BC 6 1 8 1 1 9**

CLASS ACTION

COMPLAINT FOR:

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

REPRESENTATIVE ACTION:

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

DEMAND FOR JURY TRIAL

1 PLAINTIFF SANDER GARZO ("PLAINTIFF") an individual, demanding a jury trial, on
2 behalf of himself and all other persons similarly situated, hereby alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. The Superior Court of the State of California has jurisdiction in this matter because
5 PLAINTIFF is a resident of the State of California, and Defendants METRO SERVICES GROUP,
6 a California corporation; and DOES 1 through 50, inclusive (collectively, "DEFENDANTS"), are
7 qualified to do business in California and regularly conduct business in California. Further, no
8 federal question is at issue because the claims are based solely on California law.

9 2. Venue is proper in this judicial district and the County of Los Angeles, California
10 because PLAINTIFF, and other persons similarly situated, performed work for DEFENDANTS
11 in the County of Los Angeles, DEFENDANTS maintain offices and facilities and transact
12 business in the County of Los Angeles, and because DEFENDANTS' illegal payroll policies and
13 practices which are the subject of this action were applied, at least in part, to PLAINTIFF, and
14 other persons similarly situated, in the County of Los Angeles.

15 **PLAINTIFF**

16 3. PLAINTIFF is a male resident and citizen of the State of California and a former
17 employee of DEFENDANTS at times material to this complaint.

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

28 5. PLAINTIFF brings this action on behalf of himself and the following similarly

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

6 DEFENDANTS

7 6. PLAINTIFF is informed and believes, and thereon alleges, that Defendant
8 METRO SERVICES GROUP is, and at all times relevant hereto was, a California corporation
9 organized and existing under the laws of the State of California. PLAINTIFF is further informed
10 and believes, and thereon alleges, that Defendant METRO SERVICES GROUP is authorized to
11 conduct business in the State of California and does conduct business in the State of California.
12 Specifically, Defendant METRO SERVICES GROUP maintains offices and facilities and
13 conducts business in, and engages in illegal payroll practices or policies in, the County of Los
14 Angeles, State of California.

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

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

1 Defendant, and each was the alter ego of the other.

2 9. At all relevant times herein, PLAINTIFF and CLASS MEMBERS were employed
3 by DEFENDANTS under employment agreements that were partly written, partly oral, and partly
4 implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and each of them,
5 acted pursuant to, and in furtherance of, their policies and practices of not paying PLAINTIFF
6 and CLASS MEMBERS all wages earned and due, through methods and schemes which include,
7 but are not limited to, failing to pay overtime premiums; failing to provide rest and meal periods;
8 failing to properly maintain records; failing to provide accurate itemized statements for each pay
9 period; failing to properly compensate PLAINTIFF and CLASS MEMBERS for necessary
10 expenditures; and requiring, permitting or suffering the employees to work off the clock, in
11 violation of the California Labor Code and the applicable Welfare Commission ("IWC") Orders.

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

17 11. As a direct and proximate result of the unlawful actions of DEFENDANTS,
18 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, from loss of earnings
19 in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this
20 Court.

21 CLASS ACTION DESIGNATION

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

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

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

3 c. The claims of PLAINTIFF are typical of the class because DEFENDANTS
4 subjected all non-exempt employees to identical violations of the Labor Code, the applicable
5 IWC wage order, and the Business and Professions Code.

6 d. PLAINTIFF is able to fairly and adequately protect the interests of all
7 members of the class because it is in his best interests to prosecute the claims alleged herein to
8 obtain full compensation due to them for all services rendered and hours worked.

9 **FIRST CAUSE OF ACTION**

10 **Failure to Provide Required Meal Periods**

11 **[Cal. Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 5-2001, § 11]**

12 **(Against all DEFENDANTS)**

13 13. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
14 allegations in paragraphs 1 through 12.

15 14. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies
16 and practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS
17 required, permitted or otherwise suffered PLAINTIFF and CLASS MEMBERS to take less than
18 the 30-minute meal period, or to work through them, and have failed to otherwise provide the
19 required meal periods to PLAINTIFF and CLASS MEMBERS pursuant to California Labor Code
20 § 226.7, 512 and IWC Order No. 5-2001, § 11.

21 15. DEFENDANTS further violated California Labor Code §§ 226.7 and IWC Wage
22 Order No. 5-2001, § 11 by failing to compensate PLAINTIFF and CLASS MEMBERS who were
23 not provided with a meal period, in accordance with the applicable wage order, one additional
24 hour of compensation at each employee's regular rate of pay for each workday that a meal period
25 was not provided.

26 16. DEFENDANTS further violated California Labor Code §§ 226.7, 510, 1194,
27 1197, and IWC Wage Order No. 5-2001 by failing to compensate PLAINTIFF and CLASS
28 MEMBERS for all hours worked during their meal periods.

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

SECOND CAUSE OF ACTION

Failure to Provide Required Rest Periods

[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 5-2001, § 12]

(Against all DEFENDANTS)

18. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 17.

19. At all times relevant herein, as part of DEFENDANTS' illegal payroll policies and practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS failed to provide rest periods to PLAINTIFF and CLASS MEMBERS as required under California Labor Code §§ 226.7 and 512, and IWC Wage Order No. 5-2001, § 12.

20. DEFENDANTS further violated California Labor Code § 226.7 and IWC Wage Order No. 5-2001, § 12 by failing to pay PLAINTIFF and CLASS MEMBERS who were not provided with a rest period, in accordance with the applicable wage order, one additional hour of compensation at each employee's regular rate of pay for each workday that a rest period was not provided.

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

THIRD CAUSE OF ACTION

Failure to Pay Overtime Wages

[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 5-2001, § 3]

(Against all DEFENDANTS)

22. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 21.

23. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Order No. 5-

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

7 24. PLAINTIFF and CLASS MEMBERS are current and former non-exempt
8 employees entitled to the protections of California Labor Code §§ 510, 1194, and IWC Wage
9 Order No. 5-2001. During the CLASS PERIOD, DEFENDANTS failed to compensate
10 PLAINTIFF and CLASS MEMBERS for all overtime hours worked as required under the
11 foregoing provisions of the California Labor Code and IWC Wage Order by, among other things:
12 failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by
13 California Labor Code §§ 510, 1194, and IWC Wage Order No. 5-2001, § 3; requiring, permitting
14 or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring, permitting or
15 suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest breaks; illegally
16 and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS worked; failing to
17 properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to provide accurate
18 itemized wage statements to PLAINTIFF for each pay period; and other methods to be
19 discovered.

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

27 26. DEFENDANTS' conduct described herein violates California Labor Code §§ 510,
28 1194, 1198 and IWC Wage Order No. 5-2001, § 3. Therefore, pursuant to California Labor Code

1 §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor
2 Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover the
3 unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys'
4 fees, expenses, and costs of suit.

5 **FOURTH CAUSE OF ACTION**

6 **Failure to Pay Minimum Wages**

7 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 5-2001, § 4]**

8 **(Against all DEFENDANTS)**

9 27. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
10 allegations in paragraphs 1 through 26.

11 28. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Order No. 5-
12 2001, § 4, payment to an employee of less than the applicable minimum wage for all hours
13 worked in a payroll period is unlawful.

14 29. During the CLASS PERIOD, DEFENDANTS failed to pay PLAINTIFF and
15 CLASS MEMBERS minimum wages for all hours worked by, among other things: requiring,
16 permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring,
17 permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest
18 breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS
19 worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to
20 provide accurate itemized wage statements to PLAINTIFF and CLASS MEMBERS for each pay
21 period; and other methods to be discovered.

22 30. DEFENDANTS' conduct described herein violates California Labor Code
23 §§ 1194, 1197, and IWC Wage Order No. 5-2001, § 4. As a proximate result of the
24 aforementioned violations, PLAINTIFF and CLASS MEMBERS have been damaged in an
25 amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203,
26 226, 558, 1194, 1197.1, and other applicable provisions under the Labor Code and IWC Wage
27 Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover the unpaid balance of wages

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1 owed to them by DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of
2 suit.

3 **FIFTH CAUSE OF ACTION**

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

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

6 **(Against all DEFENDANTS)**

7 31. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
8 allegations in paragraphs 1 through 30.

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

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

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

21 35. During the CLASS PERIOD, DEFENDANTS have willfully failed to pay accrued
22 wages and other compensation to PLAINTIFF and CLASS MEMBERS in accordance with
23 California Labor Code §§ 201 and 202.

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

27 37. As a proximate result of DEFENDANTS' unlawful actions and omissions,
28 PLAINTIFF and CLASS MEMBERS have been deprived of compensation in an amount

1 according to proof at the time of trial, but in excess of the jurisdiction of this Court, and are
2 entitled to recovery of such amounts, plus interest thereon, and attorneys' fees and costs, pursuant
3 to California Labor Code §§ 1194 and 2699.

4 **SIXTH CAUSE OF ACTION**

5 **Failure to Maintain Required Records**

6 **[Cal. Labor Code §§ 226, 1174; IWC Wage Order No. 5-2001, § 7]**

7 **(Against all DEFENDANTS)**

8 38. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
9 allegations in paragraphs 1 through 37.

10 39. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies
11 and practices to deprive PLAINTIFF and CLASS MEMBERS of all wages earned and due,
12 DEFENDANTS knowingly and intentionally failed to maintain records as required under
13 California Labor Code §§ 226, 1174, and IWC Wage Order No. 5-2001, § 7, including but not
14 limited to the following records: total daily hours worked by each employee; applicable rates of
15 pay; all deductions; meal periods; time records showing when each employee begins and ends
16 each work period; and accurate itemized statements.

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

24 **SEVENTH CAUSE OF ACTION**

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

26 **[Cal. Labor Code §§ 226; IWC Wage Order No. 5-2001, § 7]**

27 **(Against all DEFENDANTS)**

28 41. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the

1 allegations in paragraphs 1 through 40.

2 42. During the CLASS PERIOD, DEFENDANTS routinely failed to provide
3 PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in
4 writing showing each employee's gross wages earned, total hours worked, all deductions made,
5 net wages earned, the name and address of the legal entity or entities employing PLAINTIFF and
6 CLASS MEMBERS, and all applicable hourly rates in effect during each pay period and the
7 corresponding number of hours worked at each hourly rate, in violation of California Labor Code
8 § 226 and IWC Wage Order No. 5-2001, § 7.

9 43. During the CLASS PERIOD, DEFENDANTS knowingly and intentionally failed
10 to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage
11 statements in accordance with California Labor Code § 226(a).

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

19 **EIGHTH CAUSE OF ACTION**

20 **Failure to Indemnify Employees for Necessary Expenditures**

21 **Incurred in Discharge of Duties**

22 **[Cal. Labor Code § 2802]**

23 **(Against all DEFENDANTS)**

24 45. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
25 allegations in paragraphs 1 through 44.

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

47. During the CLASS PERIOD, DEFENDANTS knowingly and willfully failed to indemnify PLAINTIFF and CLASS MEMBERS for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of DEFENDANTS, including but not limited to expenses for mileage and other employment-related expenses, in violation of California Labor Code § 2802.

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

NINTH CAUSE OF ACTION

Unfair and Unlawful Business Practices

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

(Against all DEFENDANTS)

49. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 48.

50. Each and every one of DEFENDANTS' acts and omissions in violation of the California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but not limited to DEFENDANTS' failure and refusal to provide required meal periods, DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum wages, DEFENDANTS' failure and refusal to pay all wages due to discharged or quitting employees, DEFENDANTS' failure and refusal to furnish accurate itemized wage statements; DEFENDANTS' failure and refusal to maintain required records, DEFENDANTS' failure and refusal to indemnify PLAINTIFF and CLASS MEMBERS for necessary expenditures and/or

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1 losses incurring in discharging their duties, constitutes an unfair and unlawful business practice
2 under California Business and Professions Code § 17200 et seq.

3 51. DEFENDANTS' violations of California wage and hour laws constitute a business
4 practice because DEFENDANTS' aforementioned acts and omissions were done repeatedly over
5 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and
6 CLASS MEMBERS.

7 52. DEFENDANTS have avoided payment of wages, overtime wages, meal periods,
8 rest periods, and other benefits as required by the California Labor Code, the California Code of
9 Regulations, and the applicable IWC Wage Order. Further, DEFENDANTS have failed to
10 record, report, and pay the correct sums of assessment to the state authorities under the California
11 Labor Code and other applicable regulations.

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

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

24 **TENTH CAUSE OF ACTION**

25 **Representative Action for Civil Penalties**

26 **[Cal. Labor Code §§ 2698–2699.5]**

27 **(Against All DEFENDANTS)**

28 60. PLAINTIFF incorporates herein by specific reference as though fully set forth the

1 allegations in all preceding paragraphs, with exception of the allegations in paragraph 12 and the
2 subparagraphs thereto.

3 61. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor
4 Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other
5 current and former non-exempt employees of DEFENDANTS pursuant to the procedures
6 specified in California Labor Code § 2699.3, because PLAINTIFF was employed by
7 DEFENDANTS and the alleged violations of the California Labor Code were committed against
8 PLAINTIFF and other aggrieved employees of DEFENDANTS.

9 62. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”),
10 Labor Code §§ 2698–2699.5, PLAINTIFF, on behalf of himself and all other similarly aggrieved
11 employees, seeks to recover civil penalties, including but not limited to penalties under California
12 Labor Code §§ 2699, 210, 226.3, 558, 1174.5, 1197.1, and IWC Wage Order No. 5-2001, § 20,
13 from DEFENDANTS in a representative action for the violations set forth above, including but
14 not limited to violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512,
15 1174, 1194, 1197, 1198, and 2802. PLAINTIFF and CLASS MEMBERS are also entitled to an
16 award of reasonable attorneys’ fees and costs pursuant to California Labor Code § 2699(g)(1).

17 63. Pursuant to Labor Code § 2699.3, PLAINTIFF gave written notice by certified
18 mail postmarked February 4, 2016 to the California Labor and Workforce Development Agency
19 (“LWDA”) and DEFENDANTS of the specific provisions of the Labor Code and applicable IWC
20 Wage Order alleged to have been violated, including the facts and theories to support the alleged
21 violations. PLAINTIFF has not received any response from the LWDA. Because PLAINTIFF
22 has waited more than thirty-three (33) days from the February 4, 2016 postmark date of
23 PLAINTIFF’s written notice before filing this action, PLAINTIFF has complied with all of the
24 requirements set forth in Labor Code § 2699.3 to commence a representative action under PAGA.

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

27 **PRAYER FOR RELIEF**

28 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly

1 situated, respectfully prays for relief against DEFENDANTS as follows:

- 2 1. For compensatory damages in an amount to be ascertained at trial;
- 3 2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well
4 as disgorged profits from the unfair and unlawful business practices of DEFENDANTS;
- 5 3. For meal and rest period compensation pursuant to California Labor Code § 226.7
6 and IWC Wage Order No. 5-2001;
- 7 4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
- 8 5. For preliminary and permanent injunctive relief enjoining DEFENDANTS from
9 violating the relevant provisions of the California Labor Code and the IWC Wager Orders, and
10 from engaging in the unlawful business practices complained of herein;
- 11 6. For waiting time penalties pursuant to California Labor Code § 203;
- 12 7. For statutory and civil penalties according to proof, including but not limited to all
13 penalties authorized by the California Labor Code §§ 226(e) and 2698-2699.5;
- 14 8. For interest on the unpaid wages at 10% per annum pursuant to California Labor
15 Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable
16 provision providing for pre-judgment interest;
- 17 9. For reasonable attorneys' fees and costs pursuant to California Labor Code §§
18 1194, 2699, 2802, California Civil Code § 1021.5, and/or any other applicable provisions
19 providing for attorneys' fees and costs;
- 20 10. For declaratory relief;
- 21 11. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth,
22 Seventh, Eighth, Ninth, and Tenth Causes of Action as a class action;
- 23 12. For an order appointing PLAINTIFF as class representative and PLAINTIFF's
24 counsel as class counsel; and

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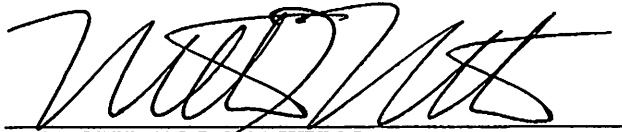
13. For such further relief that the Court may deem just and proper.

DATED: April 20, 2016

Respectfully submitted,

MATERN LAW GROUP

By:



MATTHEW J. MATERN

MATTHEW W. GORDON

AMANDA S. NAOUFAL

Attorneys for Plaintiff

SANDER GARZO

individually, and on behalf of all other
persons similarly situated

DEMAND FOR JURY TRIAL

PLAINTIFF hereby demands a jury trial with respect to all issues triable of right by jury.

DATED: April 20, 2016

Respectfully submitted,

MATERN LAW GROUP

By:



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individually, and on behalf of other persons
similarly situated