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on behalf of himself and others similarly situated

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FRANCISCO MORALES, on behalf of
himself and others similarly situated,

Plaintiff,

vs.

MOC PRODUCTS COMPANY, INC., a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No. 22STCV17634

CLASS ACTION

Assigned for All Purposes To:
Hon. Carolyn B. Kuhl
Dept.: SSC-12

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime
Under Labor Code § 510;
3. Meal-Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Reimbursement of Necessary Expenditures
Under Labor Code § 2802;
6. Violation of Labor Code § 226(a);
7. Failure to Keep Required Payroll
Records Under Labor Code §§ 1174 and 1174.5
8. Penalties Pursuant to Labor Code § 203;
9. Violation of Business & Professions Code § 17200 et seq.;
10. Penalties Pursuant to Labor Code § 2699, et seq.

DEMAND FOR JURY TRIAL

FILED
Superior Court of California
County of Los Angeles

08/08/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: K. Martinez Deputy

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1 Plaintiff FRANCISCO MORALES, (hereinafter “Plaintiff”) on behalf of himself and all
2 others similarly situated (collectively, “Employees”; individually, “Employee”) complains of
3 Defendants, and each of them, as follows:

4 INTRODUCTION

5 1. Plaintiff brings this action on behalf of himself and all current and former
6 Employees within the State of California who, at any time four (4) years prior to the filing of this
7 lawsuit, are or were employed as non-exempt, hourly employees by Defendants MOC
8 PRODUCTS COMPANY, INC., a California corporation and DOES 1 through 50 (all defendants
9 being collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each
10 of them, violated various provisions of the California Labor Code, relevant orders of the Industrial
11 Welfare Commission (IWC) and California Business & Professions Code, and seeks redress
12 therefore.

13 2. Plaintiff is a resident of California and during the time period relevant to this
14 Complaint was employed by Defendants as a non-exempt hourly employee within the State of
15 California at Defendants’ facilities and offices in Pacoima, California. Plaintiff and the other Class
16 members worked for Defendants in Los Angeles County, and in other nonexempt positions,
17 throughout California and, and consistently worked at Defendants’ behest without being paid all
18 wages due. More specifically, Plaintiff and the other similarly situated Class members were
19 employed by Defendants and worked at Defendants’ offices and other facilities where the conduct
20 giving rise to the allegations in this Class Action Complaint occurred. Upon information and
21 belief, Plaintiff was employed by Defendants and (1) shared similar job duties and responsibilities,
22 (2) was subjected to the same policies and practices, and (3) endured similar violations at the
23 hands of Defendants as the other Employee Class members who served in similar and related
24 positions.

25 3. Defendants required Plaintiff and the Employees in the Class to perform work
26 while remaining under Defendants’ control before and after being on the clock for their daily work
27 shift. Defendants thus failed to pay Plaintiff and the Class members for all hours worked, and
28 provided them with inaccurate wage statements that prevented Plaintiff and the Class from

1 learning of these unlawful pay practices. Defendants also failed to provide Plaintiff and the Class
2 with lawful meal and rest periods, as employees were not provided with the opportunity to take
3 timely, uninterrupted, and duty-free meal and rest periods as required by the Labor Code.

4 **THE PARTIES**

5 **A. The Plaintiff**

6 4. Plaintiff FRANCISCO MORALES has resided in California and during the time
7 period relevant to this Complaint was employed by Defendants as a non-exempt hourly employee
8 within the State of California at Defendants' facilities and offices in Pacoima, California.

9 **B. The Defendants**

10 5. Defendant MOC PRODUCTS COMPANY, INC., ("MPC") is a California
11 corporation with its principle executive office in Pacoima, California, and has been listed as the
12 employer on the wage statements issued to Plaintiff during the relevant time period. MPC lists a
13 California address in Pacoima, California with the California Secretary of State, and employs
14 Plaintiff and the Class members in Los Angeles County, including at Defendants' offices and
15 facilities in Pacoima, California, and throughout California and conducts business throughout
16 California.

17 6. The true names and capacities, whether individual, corporate, associate, or
18 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
19 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of
20 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
21 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
22 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
23 this Complaint to reflect the true names and capacities of the Defendants designated herein as
24 Does 1 through 50 when their identities become known.

25 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
26 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
27 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
28 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in

1 all respects as the employers or joint employers of Employees. Defendants, and each of them,
2 exercised control over the wages, hours or working conditions of Employees, or suffered or
3 permitted Employees to work, or engaged, thereby creating a common law employment
4 relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly
5 employed Employees.

6 **JURISDICTION AND VENUE**

7 8. This Court has jurisdiction over this Action pursuant to California Code of Civil
8 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
9 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
10 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
11 pursuant to California Code of Civil Procedure § 395 et seq. Upon information and belief, the
12 obligations and liabilities giving rise to this lawsuit occurred at least in part in Los Angeles
13 County and Defendants maintain and operate company offices and facilities in Los Angeles
14 County, and employ Plaintiff and other Class members in Los Angeles County and throughout
15 California.

16 **FACTUAL BACKGROUND**

17 9. The Employees who comprise the Class and Collective, including Plaintiff, are
18 nonexempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire
19 Employees who work in nonexempt positions at the direction of Defendants in the State of
20 California. Plaintiff and the Class members were either not paid by Defendants for all hours
21 worked or were not paid at the appropriate minimum, regular and overtime rates. Specifically,
22 Plaintiff and Employees were not paid for the time that they worked off-the-clock without
23 compensation by going to clinics for physical exams. Moreover, prior to clocking in to start their
24 shifts Employees had to undergo health screenings and temperature checks and also close oil
25 tanks. After the end of their shifts Employees had to perform a number of tasks including but not
26 limited to turning off valves/pipes, closing doors, finishing reports, and speaking to supervisors.
27 Plaintiff also contends that Defendants failed to pay Plaintiff and the Class members all wages due
28 and owing, failed to provide meal and rest breaks, and failed to furnish accurate wage statements,

1 all in violation of various provisions of the California Labor Code and applicable Wage Orders.

2 10. During the course of Plaintiff and the Class members' employment with
3 Defendants, they were not paid all wages they were owed, including for all work performed and
4 for all overtime hours worked and were forced to work during their meal and rest breaks to keep
5 labor budgets low.

6 11. As a matter of uniform Company policy, Plaintiff and the Class members were
7 required to work during their meal and rest breaks which were not compensated by Defendants in
8 violation of the California Labor Code. Plaintiff and the Class members were also not paid
9 regular wages and overtime for the time they were required to comply with other requirements
10 imposed upon them, which they had to complete while working through their meal and rest
11 breaks and without compensation. As a result Plaintiff and the Class members worked shifts over
12 eight (8) hours in a day and over forty (40) hours in a work week, but they were not paid at the
13 appropriate overtime rate for all such hours, including by being required to perform work duties
14 and tasks without pay and while off-the-clock. As a result, Plaintiff and the Class members
15 worked substantial overtime hours during their employment with Defendants for which they were
16 not compensated, in violation of the California Labor Code, applicable IWC Wage Orders.

17 12. As a result of the above described the daily work demands and pressures to work
18 through breaks, and the other wage violations they endured at Defendants' hands, Plaintiff and the
19 Class members were not properly paid for all wages earned and for all wages owed to them by
20 Defendants, including when working more than eight (8) hours in any given day and/or more than
21 forty (40) hours in any given week. As a result of Defendants' unlawful policies and practices,
22 Plaintiff and Class members incurred overtime hours worked for which they were not adequately
23 and completely compensated. To the extent applicable, Defendants also failed to pay Plaintiff and
24 the Class members at an overtime rate of 1.5 times the regular rate for the first eight hours of the
25 seventh consecutive work day in a week and overtime payments at the rate of 2 times the regular
26 rate for hours worked over eight (8) on the seventh consecutive work day, as required under the
27 Labor Code, applicable IWC Wage Orders.

28 13. Therefore, from at least four (4) years prior to the filing of this lawsuit and

1 continuing to the present, Defendants had a consistent policy or practice of failing to pay
2 Employees for all hours worked, and failing to pay minimum wage for all time worked as required
3 by California Law.

4 14. Additionally from at least four (4) years prior to the filing of this lawsuit and
5 continuing to the present, Defendants had a consistent policy or practice of failing to pay
6 Employees overtime compensation at premium overtime rates for all hours worked in excess of
7 eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours worked in
8 excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding
9 sections of IWC Wage Orders.

10 15. Additionally from at least four (4) years prior to the filing of this lawsuit and
11 continuing to the present, Defendants have regularly required Employees to work shifts in excess
12 of five (5) hours without providing them with uninterrupted meal periods of not less than thirty
13 (30) minutes and shifts in excess of ten (10) hours without providing them with second meal
14 periods of not less than thirty minutes; nor did Defendants pay Employees “premium pay,” i.e. one
15 hour of wages at each Employee’s effective regular rate of pay, for each meal period that
16 Defendants failed to provide or deficiently provided.

17 16. From at least four (4) years prior to the filing of this lawsuit and continuing to the
18 present, Defendants have consistently failed to provide Employees with paid rest breaks of not less
19 than ten (10) minutes for every work period of four (4) or more consecutive hours; nor did
20 Defendant pay Employees premium pay for each day on which requisite rest breaks were not
21 provided or were deficiently provided at one hour of wages at each Employee’s effective regular
22 rate of pay, for each rest period that Defendants failed to provide or deficiently provided.

23 17. Additionally from at least four (4) years prior to the filing of this lawsuit, and
24 continuing to the present, Defendants have consistently failed to provide Employees with timely,
25 accurate, and itemized wage statements as required by California wage-and-hour laws.
26 Specifically, the wage statements given to Employees by Defendants failed to accurately account
27 for wages, overtime, and premium pay for deficient meal periods and rest breaks, all of which
28 Defendants knew or reasonably should have known were owed to Employees, as alleged

1 hereinabove. The wage statements provided to Employees were confusing and required
2 Employees to engage in discovery and refer to outside sources to verify whether their pay was
3 correct and potentially resulting in a miscalculation by the Employees.

4 18. Additionally from at least four (4) years prior to the filing of this lawsuit, and
5 continuing to the present, Defendants have consistently failed to provide Employees with timely,
6 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws.

7 19. From at least four (4) years prior to the filing of this lawsuit and continuing to the
8 present, Defendants have failed to reimburse Employees for expenses necessarily incurred in the
9 performance of their job duties for Defendants including, but not limited to, the cell phone usage,
10 costs for vehicle maintenance, mileage, fuel, steel toed boots, and replacement of safety glasses,
11 safety shoes, and facial masks which were necessary to perform their duties under Defendants'
12 employ in violation of Labor Code § 2802.

13 20. Additionally from at least three (3) years prior to the filing of this lawsuit, and
14 continuing to the present, Defendants have consistently failed to keep accurate time and wage
15 records as required by California wage-and-hour laws.

16 21. Additionally from at least four (4) years prior to filing this lawsuit and continuing
17 to the present, Defendants have had a consistent policy of failing to pay all wages fur and owed to
18 Employees at the time of their termination of within seventy-two (72) hours of their resignation, as
19 required by California wage-and-hour laws.

20 22. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor
21 Code §§ 201, 202, 203, 204, 210, 218.5, 226, 226.3, 226.4, 226.7, 510, 512, 558, 558.1, 1174,
22 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, et seq. 2751, 2802, 2810.5.

23 23. Furthermore, pursuant to Business and Professions Code §§ 17200-17208,
24 Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have
25 enjoyed from their violations of Labor Code.

26 CLASS ALLEGATIONS

27 24. Plaintiff brings this class action on behalf of himself an all others similarly situated
28 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows:

all individuals employed by Defendants, at any time within four (4) years of the filing of this lawsuit, and have been employed by Defendants within the State of California.

25. Further, plaintiff seeks to represent the following Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Meal Period Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

e. Subclass 5. Payroll Records Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

f. Subclass 6. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

g. Subclass 7. Failure to Reimburse for Necessary Business Expenditures. All Class members who were subject to Defendants failing to reimburse for expenses necessarily incurred in the performance of Employees job duties for Defendants which were necessary to perform their duties under Defendants' employ.

h. Subclass 8. Termination Pay Subclass. All Class members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon

1 termination.

2 i. Subclass 9. Failure Provide Information Upon Hiring. All Class members who,
3 within the applicable limitations period, were subject to Defendants' policy and/or practice of
4 failing to provide Plaintiff and the Class Members at the time of hiring with written notice, in the
5 language the employer normally uses to communicate, of wage and other employment-related
6 information.

7 j. Subclass 10. UCL Subclass. All Class members who are owed restitution as a
8 result of Defendants' business acts and practices, to the extent such acts and practices are found to
9 be unlawful, deceptive, and/or unfair.

10 26. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
11 modify the class description with greater particularity or further division into subclasses or
12 limitation to particular issues.

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

16 **A. Numerosity**

17 28. The potential members of the class as defined are so numerous that joinder of all
18 the member of the class is impracticable. While the precise number of class member has not been
19 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
20 time period relevant to this lawsuit, employed more than 100 individuals were employed by
21 Defendant's within the State of California.

22 29. Accounting for employee turnover during the relevant time period increases this
23 number substantially. Plaintiff alleges that Defendants' employment records will provide
24 information as to the number and location of all class members.

25 **B. Commonality**

26 30. There are questions of law and fact common to the class that predominate over any
27 questions affecting only individual class members. These common questions of law and fact
28 include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to provide Employees with requisite rest breaks or premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code § 226(a);
- g. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- h. Whether Defendants failed to reimburse Employees for necessary business expenses;
- i. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- j. Whether Defendants violated Business and Professions Code § 17200 et seq.;
- k. Whether Defendants are liable for penalties under Labor Code § 2699, et seq.; and
- l. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 et seq.

C. Typicality

31. The claims of the named plaintiff are typical of those of the other Employees. Employees all sustained injuries and damages arising out of and caused by Defendant's common course of conducts in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

32. Plaintiff will fairly and adequately represent and protect the interest of Employees. Counsel who represents Employees are experienced and competent in litigating employment class

actions.

E. Superiority of Class Action

33. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions of law and fact common to all Employees predominate over any questions affecting only individual Employees. Each Employee has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

34. Class action treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

FIRST CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(Against All Defendants)

35. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

36. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of misstating Employees time records and failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with working during meal breaks, time off the clock Employees without compensation by going to clinics for physical exams. Moreover, prior to clocking in to start their shifts Employees had to undergo health screenings and temperature checks and also close oil tanks. After the end of their shifts Employees had to perform a number of tasks including but not limited to turning off valves/pipes, closing doors, finishing reports, and speaking to supervisors. Additionally, Defendants had a consistent policy of failing to pay Employees for hours worked during alleged meal periods for which Employees were consistently denied, as also addressed herein. Moreover, Defendants did not pay Plaintiff and Employees at the applicable minimum wage for all hours worked. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a

1 result of implementing a uniform policy and practice that denied accurate compensation to
2 Plaintiff and the other members of the Class as to minimum wage pay.

3 37. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
4 states:

5 The minimum wage for employees fixed by the commission is the
6 minimum wage to be paid to employees, and the payment of a less
7 wage than the minimum so fixed is unlawful.

8 38. The applicable minimum wages fixed by the commission for work during the
9 relevant period is found in the Wage Orders. Pursuant to the Wage Orders, Employees are
10 therefore entitled to double the minimum wage during the relevant period.

11 39. The minimum wage provisions of California Labor Code are enforceable by private
12 civil action pursuant to California Labor Code § 1194(a) which states:

13 Notwithstanding any agreement to work for a lesser wage, any
14 employee receiving less than the legal minimum wage or the legal
15 overtime compensation applicable to the employee is entitled to
16 recover in a civil action the unpaid balance of the full amount of
17 this minimum wage or overtime compensation, including interest
18 thereon, reasonable attorney’s fees and costs of suit.

19 40. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
20 incorporates the applicable Wage Order of the California Industrial Welfare Commission.

21 41. California Labor Code § 1194.2 also provides for the following remedies:

22 In any action under Section 1194 . . . to recover wages because of
23 the payment of a wage less than the minimum wages fixed by an
24 order of the commission, an employee shall be entitled to recover
25 liquidated damages in an amount equal to the wages unlawfully
26 unpaid and interest thereon.

27 42. Defendants have the ability to pay minimum wages for all time worked and have
28 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

43. Wherefore, Employees are entitled to recover the unpaid minimum wages
(including double minimum wages), liquidated damages in an amount equal to the minimum
wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant
to California Labor Code § 1194(a).

1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

3 **(Against All Defendants)**

4 44. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 45. By their conduct, as set forth herein, Defendants violated California Labor Code §
7 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:
8 (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a
9 workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked
10 on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
11 worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight
12 (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not
13 paying Employees wages for all hours worked including time off the clock Employees spent
14 without compensation by going to clinics for physical exams. Moreover, prior to clocking in to
15 start their shifts Employees had to undergo health screenings and temperature checks and also
16 close oil tanks. After the end of their shifts Employees had to perform a number of tasks
17 including but not limited to turning off valves/pipes, closing doors, finishing reports, and
18 speaking to supervisors. Employees regularly worked over 8 hours on a given day without
19 receiving overtime compensation.

20 46. Defendants' failure to pay compensation in a timely fashion also constituted a
21 violation of California Labor Code § 204, which requires that all wages shall be paid
22 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
23 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
24 and overtime compensation earned by Employees. Each such failure to make a timely payment of
25 compensation to Employees constitutes a separate violation of California Labor Code § 204.

26 47. Employees have been damaged by these violations of California Labor Code §§
27 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

28 48. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the

relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs.

THIRD CAUSE OF ACTION

MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

49. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

50. Employees regularly worked shifts greater than five (5) hours and greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of more than five (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second meal period of not less than thirty (30) minutes.

51. Defendants failed to provide Employees with meal periods as required under the Labor Code. Employees were consistently required to work through their meal periods which they were consistently denied. Moreover, Defendants' timekeeping system locked out Employees for thirty (30) minutes and they were prevented from clocking back in when their breaks were shortened due to interruptions due to work related tasks. Employees were also required to take meal periods after working well beyond the five (5) hour shifts. Furthermore, Employees were regularly required to work for more than 10 hours in a given shift without receiving a second uninterrupted thirty (30) minute meal period as required by law.

52. Additionally, under *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257, 260 (2016) "[D]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time." Defendants' did not allow Employees to leave the Defendants' location and this is directly at odds with *Augustus*, as it "tethered [employees] by time and policy to a particular location" and therefore fails to relieve employees of all work duties and employer control during rest periods. *Augustus*, 2 Cal.5th at 269.

53. Moreover, Defendants failed to compensate Employees for each meal period not

1 provided or inadequately provided, as required under Labor Code § 226.7.

2 54. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
3 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal
4 period not provided or deficiently provided, a sum to be proven at trial.

5 **FOURTH CAUSE OF ACTION**

6 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

7 **(Against All Defendants)**

8 55. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
9 full herein.

10 56. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the
11 Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of
12 not less than ten (10) minutes for each consecutive four (4) hour shift.

13 57. Defendants failed to provide Employees with timely rest breaks of not less than ten
14 (10) minutes for each consecutive four (4) hour shift.

15 58. Moreover, Defendants did not compensate Employees with an additional hour of
16 pay at each Employee's effective hourly rate for each day that Defendants failed to provide them
17 with adequate rest breaks, as required under Labor Code § 226.7.

18 59. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
19 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each day
20 worked without the required rest breaks, a sum to be proven at trial.

21 **FIFTH CAUSE OF ACTION**

22 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES**

23 **IN VIOLATION OF LABOR CODE § 2802**

24 **(Against All Defendants)**

25 60. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
26 full herein.

27 61. Under Labor Code § 2802(a) an employer must indemnify its employees for all
28 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.

62. Employees incurred necessary expenditures in the performance of their job duties for Defendants, namely the cost of , cell phone usage, costs for vehicle maintenance, mileage, fuel, steel toed boots, and replacement of safety glasses, safety shoes, and facial masks which were necessary to perform their duties under Defendants' employ. From four (4) years prior to the original filing of this lawsuit and continuing to the present, Defendants consistently failed to reimburse Employees for these necessarily incurred business expenses.

63. As a result of the unlawful acts of Defendants, Employees have been deprived of reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(a)
(Against All Defendants)

64. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

65. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

66. Defendants failed to provide Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Employees by Defendants failed to accurately account for wages, overtime, and premium pay for deficient meal and rest periods, all of which Defendants knew or reasonably should have known were owed to Employees, as alleged hereinabove.

67. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a),

1 Employees suffered injuries, including among other things confusion over whether they received
2 all wages owed them, the difficulty and expense involved in reconstructing pay records, and
3 forcing them to make mathematical computations to analyze whether the wages paid in fact
4 compensated them correctly for all hours worked.

5 68. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover
6 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
7 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
8 exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
9 award of costs and reasonable attorneys' fees.

10 69. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a
11 civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for
12 each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
13 employee for each pay period.

14 70. Plaintiff is seeking penalties against Defendants under Labor Code § 226.3, and
15 any other applicable statute allowing recovery of penalties as alleged herein in an amount to be
16 shown according to proof.

17 **SEVENTH CAUSE OF ACTION**

18 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE §§ 1174**
19 **AND 1174.5**

20 **(Against All Defendants)**

21 71. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
22 full herein.

23 72. California Labor Code § 1174 requires that all employers shall keep accurate time
24 and wage records for all employees. California Labor Code § 1174.5 further requires that any
25 employee suffering injury due to a willful violation of the aforementioned obligations may seek
26 damages, including civil penalties, from the employer.

27 73. During the course of Plaintiff's and Employees' employment, Defendants
28 consistently failed to maintain accurate time and wage records for Plaintiff and Employees as

1 required by California Labor Code § 1174 by failing to pay Plaintiff and Employees proper wages,
2 overtime, and premium pay as discussed above.

3 74. Accordingly, Defendants are liable for civil penalties pursuant to the California
4 Labor Code §§ 1174.5, for the three (3) years prior to the filing of this Complaint.

5 **EIGHTH CAUSE OF ACTION**
6 **VIOLATION OF LABOR CODE § 203**
7 **(Against All Defendants)**

8 75. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
9 full herein.

10 76. Numerous Employees are no longer employed by Defendants; they either quit
11 Defendants' employ or were fired therefrom.

12 77. Defendants failed to pay these Employees all wages due and certain at the time of
13 termination or within seventy-two (72) hours of resignation.

14 78. The wages withheld from these Employees by Defendants remained due and owing
15 for more than thirty (30) days from the date of separation of employment.

16 79. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
17 knew wages to be due but failed to pay them; this violation entitles these Employees to penalties
18 under Labor Code § 203, which provides that an employee's wages shall continue until paid for up
19 to thirty (30) days from the date they were due.

20 **NINTH CAUSE OF ACTION**
21 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**
22 **(Against All Defendants)**

23 80. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 81. Plaintiff, on behalf of herself, Employees, and the general public, brings this claim
26 pursuant to Business & Professions Code § 17200 et seq. The conduct of Defendants as alleged in
27 this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the
28 general public. Plaintiff seeks to enforce important rights affecting the public interest within the

1 meaning of Code of Civil Procedure

2 § 1021.5.

3 82. Plaintiff is a “person” within the meaning of Business & Professions Code
4 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
5 relief, restitution, and other appropriate equitable relief.

6 83. Business & Professions Code § 17200 et seq. prohibits unlawful and unfair
7 business practices.

8 84. Wage-and-hour laws express fundamental public policies. Paying employees their
9 wages and overtime, providing them with meal and rest periods, etc., are fundamental public
10 policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously
11 to enforce minimum labor standards, to ensure that employees are not required or permitted to
12 work under substandard and unlawful conditions, and to protect law-abiding employers and their
13 employees from competitors who lower costs to themselves by failing to comply with minimum
14 labor standards.

15 85. Defendants have violated statutes and public policies. Through the conduct alleged
16 in this Complaint Defendants have acted contrary to these public policies, have violated specific
17 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
18 violation of Business & Professions Code § 17200 et seq.; which conduct has deprived Plaintiff,
19 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
20 guaranteed to all employees under the law.

21 86. Defendants’ conduct, as alleged hereinabove, constitutes unfair competition in
22 violation of the Business & Professions Code § 17200 et seq.

23 87. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
24 overtime, failing to provide meal and rest periods, etc., either knew or in the exercise of reasonable
25 care should have known that their conduct was unlawful; therefore their conduct violates the
26 Business & Professions Code § 17200 et seq.

27 88. As a proximate result of the above-mentioned acts of Defendants, Employees have
28 been damaged, in a sum to be proven at trial.

89. Unless restrained by this Court Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

TENTH CAUSE OF ACTION

PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.

(Against All Defendants)

90. Plaintiff re-allege and incorporates all preceding paragraphs, as though set forth in full herein.

91. Plaintiff and Employees are aggrieved employees as defined under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and were employed by the alleged violators, Defendants.

92. Plaintiffs seeks penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of all Labor Code provisions included under Labor Code § 2699.5 and includes the penalty provisions, without limitation, based on the following California Labor Code sections: 201, 202, 203, 204, 210, 218.5, 226, 226.3, 226.4, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.* 2751, 2802, 2810.5.

93. The penalties shall be allocated as follows: 75% to the Labor and Workforce Development Agency (LWDA) and 25% to the affected employee.

94. Employees also seek any and all penalties and remedies set forth in Labor Code § 558, which states:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to

1 recover underpaid wages. (2) For each subsequent violation, one
2 hundred dollars (\$100) for each underpaid employee for each pay
3 period for which the employee was underpaid in addition to an
4 amount sufficient to recover underpaid wages. (3) Wages
recovered pursuant to this section shall be paid to the affected
employee.

5 (b) If upon inspection or investigation the Labor
6 Commissioner determines that a person had paid or caused to be
7 paid a wage for overtime work in violation of any provision of
8 this chapter, or any provision regulating hours and days of work
9 in any order of the Industrial Welfare Commission, the Labor
10 Commissioner may issue a citation. The procedures for issuing,
11 contesting, and enforcing judgments for citations or civil penalties
12 issued by the Labor Commissioner for a violation of this chapter
13 shall be the same as those set out in Section 1197.1.

14 (c) The civil penalties provided for in this section are in addition to
15 any other civil or criminal penalty provided by law.

16 95. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of
17 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
18 per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee
19 for each violation in a subsequent citation, for which the employer fails to provide the employee a
20 wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” To the
21 extent that Labor Code § 226.3 applies, Plaintiff and Employees also seeks such penalties on.

22 96. Plaintiffs have exhausted their administrative remedy by sending a certified letter to
23 the LWDA and Defendants postmarked on October 15, 2020. The LWDA has not provided notice
24 of its intent to investigate the alleged violations within 65 calendar days of the postmark date of
25 the letters.

26 **RELIEF REQUESTED**

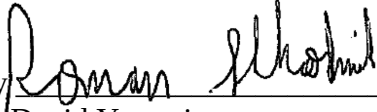
27 WHEREFORE, Plaintiff prays for the following relief:

- 28 1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work
performed by Employees and unpaid overtime compensation from at least four (4) years prior to
the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
6. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
7. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
8. For penalties pursuant to Labor Code § 1174.5, as may be proven;
9. For restitution for unfair competition pursuant to Business & Professions Code § 17200 et seq., including disgorgement or profits, as may be proven;
10. For penalties pursuant to Labor Code § 2699, et seq., as may be proven;
11. For compensatory damages in the amount of all previously unreimbursed business expenditures necessarily incurred by Employees in the discharge of their job duties for Defendants from four (4) years prior to the original filing of this action, as may be proven;
12. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
13. For all general, special, and incidental damages as may be proven;
14. For an award of pre-judgment and post-judgment interest;
15. For an award providing for the payment of the costs of this suit;
16. For an award of attorneys' fees; and
17. For such other and further relief as this Court may deem proper and just.

1 DATED: August 8, 2022

DAVID YEREMIAN & ASSOCIATES, INC.

2
3 By 

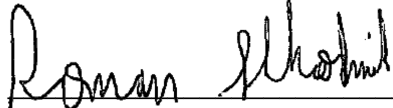
4 David Yeremian
5 Roman Shkodnik
6 Attorneys for Plaintiff
7 FRANCISCO MORALES
8 and the putative class
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: August 8, 2022

DAVID YEREMIAN & ASSOCIATES, INC.

By 

David Yeremian
Roman Shkodnik
Attorneys for Plaintiff
FRANCISCO MORALES
and the putative class

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 2540 Foothill Blvd., Suite 201, La Crescenta, CA 91214.

Hashim Hashimi
Hashim.Hashimi@lewisbrisbois.com
 Bijan Mohseni
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[X] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail La Crescenta, California. I am “readily familiar” with this firm’s practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[X] (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

[] **(BY PERSONAL SERVICE)** I personally delivered said envelope to the office of the person and address identified on the attached service list.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 8, 2022, at La Crescenta, California.

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Natalia Bermudes
Natalia Bermudes

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES Branch Name: Spring Street Courthouse Mailing Address: 312 North Spring Street City, State and Zip Code: Los Angeles CA 90012	
SHORT TITLE: FRANCISCO MORALES, vs MOC PRODUCTS COMPANY, INC. NOTICE OF CONFIRMATION OF ELECTRONIC FILING	CASE NUMBER: 22STCV17634

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of LOS ANGELES. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Legal Connect
 Reference Number: 6166662_2022_08_08_15_06_39_438_7
 Submission Number: 22LA00976134
 Court Received Date: 08/08/2022
 Court Received Time: 3:08 pm
 Case Number: 22STCV17634
 Case Title: FRANCISCO MORALES, vs MOC PRODUCTS COMPANY, INC.
 Location: Spring Street Courthouse
 Case Type: Civil Unlimited
 Case Category: Other Employment Complaint Case
 Jurisdictional Amount: Over \$25,000
 Notice Generated Date: 08/09/2022
 Notice Generated Time: 11:04 am

Documents Electronically Filed/Received

Status

Amended Complaint

Accepted

Comments

Submitter's Comments:

Clerk's Comments:

Electronic Filing Service Provider Information

Service Provider: Legal Connect
 Contact: Legal Connect
 Phone: (800) 909-6859