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Attorneys for Plaintiff JESUS BARAJAS  
individually, and on behalf of others similarly  
situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SANTA CLARA**

JESUS BARAJAS, individually, and on  
behalf of others similarly situated

Plaintiff,

vs.

SOUTHERN CALIFORNIA DISCOUNT  
TIRE CO., INC., a California corporation;  
AMERICA'S TIRE COMPANY, an unknown  
business entity; DISCOUNT TIRE CO, INC.  
d/b/a DISCOUNT TIRE COMPANY, an  
Arizona corporation; THE REINALT-  
THOMAS CORPORATION, an Arizona  
corporation; DISCOUNT TIRE  
CERTIFICATE, LLC, an Arizona limited  
liability company; and DOES 1 through 50,  
inclusive,

Defendants.

CASE NO.: **23CV412412**

**COMPLAINT**

**CLASS ACTION:**

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 JESUS BARAJAS (“PLAINTIFF”), individually and on behalf of others  
2 similarly situated demanding a jury trial, hereby alleges as follows:

3 **INTRODUCTION**

4 1. PLAINTIFF brings this action on behalf of himself and other similarly situated  
5 current and former non-exempt employees of Defendants SOUTHERN CALIFORNIA  
6 DISCOUNT TIRE CO., INC.; AMERICA’S TIRE COMPANY; DISCOUNT TIRE CO, INC. d/b/a  
7 DISCOUNT TIRE COMPANY; THE REINALT-THOMAS CORPORATION; DISCOUNT TIRE  
8 CERTIFICATE, LLC; and DOES 1 through 50, inclusive (collectively “DEFENDANTS”) at any  
9 time during the four years preceding the filing of this action, and continuing while this action is  
10 pending, brings this class action to recover penalties arising from unpaid wages earned and due,  
11 including but not limited to unpaid and illegally calculated overtime compensation, illegal meal  
12 and rest period policies, failure to pay all wages due to discharged or quitting employees, failure  
13 to maintain required records, failure to provide accurate itemized wage statements, failure to  
14 timely pay wages during employment, failure to indemnify employees for necessary expenditures  
15 and/or losses incurred in discharging their duties, failure to provide accurate itemized wage  
16 statements, failure to maintain required records, and interest, attorneys’ fees, costs, and expenses.

17 2. PLAINTIFF brings this action on behalf of himself and the following similarly  
18 situated class of individuals (“CLASS MEMBERS”): all current and former non-exempt  
19 employees of DEFENDANTS in the State of California at any time within the period  
20 beginning four (4) years prior to the filing of this action and ending at the time this action  
21 settles or proceeds to final judgment (the “CLASS PERIOD”). PLAINTIFF reserves the right  
22 to name additional class representatives.

23 **JURISDICTION AND VENUE**

24 3. The Superior Court of the State of California has jurisdiction in this matter because  
25 PLAINTIFF is a resident of the State of California and DEFENDANTS are citizens and residents  
26 of, and/or regularly conduct business in California. Further, no federal question is at issue  
27 because the claims are based solely on California law.

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4. Venue is proper in this judicial district and the County of Santa Clara, California because PLAINTIFF and other persons similarly situated performed work for DEFENDANTS in the County of Santa Clara and many of DEFENDANTS' unlawful actions and omissions, as set forth herein, occurred in the County of Santa Clara.

## PARTIES

5. PLAINTIFF is a resident of the State of California. At times material to this complaint, PLAINTIFF was employed by DEFENDANTS as a non-exempt employee within the State of California.

6. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT SOUTHERN CALIFORNIA DISCOUNT TIRE CO., INC. is, and at all times relevant hereto was, a corporation authorized to conduct business in the State of California, and does conduct business in the State of California. Specifically, upon information and belief, SOUTHERN CALIFORNIA DISCOUNT TIRE CO., INC. maintains offices and conducts business in the County of Santa Clara, State of California.

7. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT AMERICA'S TIRE COMPANY is, and at all times relevant hereto was, a corporation authorized to conduct business in the State of California, and does conduct business in the State of California. Specifically, upon information and belief, AMERICA'S TIRE COMPANY maintains offices and conducts business in the County of Santa Clara, State of California

8. PLAINTIFF is informed and believes, and thereon alleges, that DISCOUNT TIRE CO, INC. d/b/a DISCOUNT TIRE COMPANY is, and at all times relevant hereto was, a business entity authorized to conduct business in the State of California, which does conduct business in the State of California, and which maintains offices and conducts business in the County of Santa Clara, State of California.

9. PLAINTIFF is informed and believes, and thereon alleges, that THE REINALT-THOMAS CORPORATION is, and at all times relevant hereto was, a corporation authorized to conduct business in the State of California, which does conduct business in the State of California, and which maintains offices and conducts business in the County of Santa Clara, State

1 of California.

2 10. PLAINTIFF is informed and believes, and thereon alleges, that DISCOUNT TIRE  
3 CERTIFICATE, LLC is, and at all times relevant hereto was, a business entity authorized to  
4 conduct business in the State of California, which does conduct business in the State of  
5 California, and which maintains offices and conducts business in the County of Santa Clara, State  
6 of California.

7 11. The true names and capacities of DOES 1 through 50, inclusive, are unknown to  
8 PLAINTIFF at this time, and PLAINTIFF therefore sues such Defendants under fictitious names.  
9 PLAINTIFF is informed and believes, and thereon alleges, that each Defendant designated as a  
10 DOE is in some manner highly responsible for the occurrences alleged herein, and that  
11 PLAINTIFF and other persons similarly situated injuries and damages, as alleged herein, were  
12 proximately caused by the conduct of such DOE Defendants. PLAINTIFF will seek leave of the  
13 court to amend this complaint to allege the true names and capacities of such DOE Defendants  
14 when ascertained.

15 12. At all relevant times herein, DEFENDANTS were the joint employers of  
16 PLAINTIFF and other persons similarly situated. PLAINTIFF is informed and believes, and  
17 thereon alleges, that at all times material to this complaint DEFENDANTS were the alter egos,  
18 divisions, affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals,  
19 related entities, co-conspirators, authorized agents, partners, joint venturers, and/or guarantors,  
20 actual or ostensible, of each other. Each defendant was completely dominated by his, her, or its  
21 co-defendant, and each was the alter ego of the other.

22 13. At all relevant times herein, PLAINTIFF and other persons similarly situated were  
23 employed by DEFENDANTS under employment agreements that were partly written, partly oral,  
24 and partly implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and  
25 each of them, acted pursuant to, and in furtherance of, their policies and practices of not paying  
26 PLAINTIFF and other persons similarly situated all wages earned and due, through methods and  
27 schemes which include, but are not limited to, failing to pay overtime premiums; failing to  
28 provide rest and meal periods; failing to properly maintain records; failing to provide accurate

1 itemized statements for each pay period; failing to timely pay wages during employment; failing  
2 to properly compensate PLAINTIFF and other persons similarly situated for necessary  
3 expenditures; and requiring, permitting or suffering the employees to work off the clock, in  
4 violation of the California Labor Code (“Labor Code”) and the applicable Industrial Welfare  
5 Commission (“IWC”) Wage Order.

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

11 15. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting  
12 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any  
13 provision regulating minimum wages or hours and days of work in any order of the Industrial  
14 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

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

19 **CLASS ACTION DESIGNATION**

20 17. This action is appropriately suited for a Class Action because:

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

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

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

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

7 **FIRST CAUSE OF ACTION**

8 **Failure to Provide Required Meal Periods**

9 **[Cal. Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Orders No. 7-2001]**

10 **(Against all DEFENDANTS)**

11 18. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the  
12 allegations in the foregoing paragraphs.

13 19. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies  
14 and practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS  
15 required, permitted or otherwise suffered PLAINTIFF and CLASS MEMBERS to take less than  
16 the 30-minute meal period, or to work through them, and have failed to otherwise provide the  
17 required meal periods to PLAINTIFF and CLASS MEMBERS pursuant to California Labor Code  
18 § 226.7, 512 and IWC Orders No. 7-2001.

19 20. DEFENDANTS further violated California Labor Code §§ 226.7 and IWC Wage  
20 Orders No. 7-200, § 11 by failing to compensate PLAINTIFF and CLASS MEMBERS who were  
21 not provided with a meal period, in accordance with the applicable wage order, one additional  
22 hour of compensation at each employee's regular rate of pay for each workday that a meal period  
23 was not provided.

24 21. DEFENDANTS further violated California Labor Code §§ 226.7, 510, 1194,  
25 1197, and IWC Wage Orders No. 7-2001 by failing to compensate PLAINTIFF and CLASS  
26 MEMBERS for all hours worked during their meal periods.

27 22. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS  
28 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages

1 earned and due, interest, penalties, expenses, and costs of suit.

2 **SECOND CAUSE OF ACTION**

3 **Failure to Provide Required Rest Periods**

4 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Orders No. 7-2001 § 12]**

5 **(Against all DEFENDANTS)**

6 23. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the  
7 allegations in the foregoing paragraphs.

8 24. At all times relevant herein, as part of DEFENDANTS' illegal payroll policies and  
9 practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS  
10 failed to provide rest periods to PLAINTIFF and CLASS MEMBERS as required under  
11 California Labor Code §§ 226.7 and 512, and IWC Wage Orders No. 7-2001.

12 25. DEFENDANTS further violated California Labor Code § 226.7 and IWC Wage  
13 Orders No. 7-2001, § 12 by failing to pay PLAINTIFF and CLASS MEMBERS who were not  
14 provided with a rest period, in accordance with the applicable wage order, one additional hour of  
15 compensation at each employee's regular rate of pay for each workday that a rest period was not  
16 provided.

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

20 **THIRD CAUSE OF ACTION**

21 **Failure to Pay Overtime Wages**

22 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Orders Nos. 7-2001, § 3]**

23 **(Against all DEFENDANTS)**

24 27. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the  
25 allegations in the foregoing paragraphs.

26 28. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Orders No. 7-  
27 2001, § 3, DEFENDANTS are required to compensate PLAINTIFF and CLASS MEMBERS for  
28 all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all

1 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the  
2 first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in  
3 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours  
4 on the seventh consecutive day of work in any workweek.

5 29. PLAINTIFF and CLASS MEMBERS are current and former non-exempt  
6 employees entitled to the protections of California Labor Code §§ 510, 1194, and IWC Wage  
7 Orders N0. 7-2001. During the CLASS PERIOD, DEFENDANTS failed to compensate  
8 PLAINTIFF and CLASS MEMBERS for all overtime hours worked as required under the  
9 foregoing provisions of the California Labor Code and IWC Wage Order by, among other things:  
10 failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by  
11 California Labor Code §§ 510, 1194, and IWC Wage Orders No. 7-2001, § 3; requiring,  
12 permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring,  
13 permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest  
14 breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS  
15 worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to  
16 provide accurate itemized wage statements to PLAINTIFF for each pay period; failing to properly  
17 pay employees reporting time on occasions when they were required to report for work, and did  
18 report, but were not put to work or were furnished less than half of their usual or scheduled day's  
19 work; failing to include all forms of remuneration when calculating the regular rate of pay for  
20 purposes of paying overtime; and other methods to be discovered.

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

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1           31.     DEFENDANTS' conduct described herein violates California Labor Code §§ 510,  
2     1194, 1198 and IWC Wage Orders No. 7-2001, § 3. Therefore, pursuant to California Labor  
3     Code §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California  
4     Labor Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover  
5     the unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys'  
6     fees, expenses, and costs of suit.

7                                 **FOURTH CAUSE OF ACTION**

8                                 **Failure to Pay Minimum Wages**

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

10                                **(Against all DEFENDANTS)**

11           32.     PLAINTIFF incorporates herein by specific reference, as though fully set forth, the  
12     allegations in the foregoing paragraphs.

13           33.     Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Orders No. 7-  
14     2001, § 4, payment to an employee of less than the applicable minimum wage for all hours  
15     worked in a payroll period is unlawful.

16           34.     During the CLASS PERIOD, DEFENDANTS failed to pay PLAINTIFF and  
17     CLASS MEMBERS minimum wages for all hours worked by, among other things: requiring,  
18     permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring,  
19     permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest  
20     breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS  
21     worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to  
22     provide accurate itemized wage statements to PLAINTIFF and CLASS MEMBERS for each pay  
23     period; failing to properly pay employees reporting time on occasions when they were required to  
24     report for work, and did report, but were not put to work or were furnished less than half of their  
25     usual or scheduled day's work; and other methods to be discovered.

26           35.     DEFENDANTS' conduct described herein violates California Labor Code §§  
27     1194, 1197, and IWC Wage Orders No. 7-2001, § 4. As a proximate result of the aforementioned  
28     violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to

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

5 **FIFTH CAUSE OF ACTION**

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

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

8 **(Against all DEFENDANTS)**

9 36. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the  
10 allegations in the foregoing paragraphs.

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

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

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

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

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

42. As a proximate result of DEFENDANTS' unlawful actions and omissions, PLAINTIFF and CLASS MEMBERS have been deprived of compensation in an amount according to proof at the time of trial, but in excess of the jurisdiction of this Court, and are entitled to recovery of such amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code §§ 1194 and 2699.

## **SIXTH CAUSE OF ACTION**

## Failure to Maintain Required Records

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

**(Against all DEFENDANTS)**

43. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

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

45. 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 are entitled to all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as well as other available remedies.

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1 **SEVENTH CAUSE OF ACTION**

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

3 **[Cal. Labor Code §§ 226, 1174; IWC Wage Orders No. 7-2001, § 7]**

4 **(Against all DEFENDANTS)**

5 46. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the  
6 allegations in the foregoing paragraphs.

7 47. During the CLASS PERIOD, DEFENDANTS routinely failed to provide  
8 PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in  
9 writing showing each employee's gross wages earned, total hours worked, all deductions made,  
10 net wages earned, the name and address of the legal entity or entities employing PLAINTIFF and  
11 CLASS MEMBERS, and all applicable hourly rates in effect during each pay period and the  
12 corresponding number of hours worked at each hourly rate, in violation of California Labor Code  
13 § 226 and IWC Wage Orders No. 7-2001, § 7.

14 48. During the CLASS PERIOD, DEFENDANTS knowingly and intentionally failed  
15 to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage  
16 statements in accordance with California Labor Code § 226(a).

17 49. 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 seek all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and  
20 CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to  
21 civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of  
22 costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in  
23 California Labor Code § 226(e), as well as other available remedies.

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1 **EIGHTH CAUSE OF ACTION**

2 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of**  
3 **Duties**

4 **[Cal. Labor Code § 2802]**

5 **(Against all DEFENDANTS)**

6 50. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the  
7 allegations in the foregoing paragraphs.

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

11 52. During the CLASS PERIOD, DEFENDANTS knowingly and willfully failed to  
12 indemnify PLAINTIFF and CLASS MEMBERS for all business expenses and/or losses incurred  
13 in direct consequence of the discharge of their duties while working under the direction of  
14 DEFENDANTS, including but not limited to, expenses for uniforms and/or tools, the use of  
15 personal cell phones for work purposes, and other employment-related expenses, in violation of  
16 California Labor Code § 2802.

17 53. 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 seek reimbursement of all necessary expenditures, plus interest thereon pursuant to  
20 California Labor Code § 2802(b). Additionally, PLAINTIFF and CLASS MEMBERS are  
21 entitled to all available statutory penalties and an award of costs, expenses, and reasonable  
22 attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other  
23 available remedies.

24 **NINTH CAUSE OF ACTION**

25 **Unfair and Unlawful Business Practices**

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

27 **(Against all DEFENDANTS)**

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

1 allegations in the foregoing paragraphs.

2 55. Each and every one of DEFENDANTS' acts and omissions in violation of the  
3 California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but  
4 not limited to DEFENDANTS' failure and refusal to provide required meal periods,  
5 DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and  
6 refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum  
7 wages, DEFENDANTS' failure and refusal to pay all wages due to discharged or quitting  
8 employees, DEFENDANTS' failure and refusal to furnish accurate itemized wage statements;  
9 DEFENDANTS' failure and refusal to maintain required records, DEFENDANTS' failure and  
10 refusal to indemnify PLAINTIFF and CLASS MEMBERS for necessary expenditures and/or  
11 losses incurring in discharging their duties, constitutes an unfair and unlawful business practice  
12 under California Business and Professions Code § 17200 et seq.

13 56. DEFENDANTS' violations of California wage and hour laws constitute a business  
14 practice because DEFENDANTS' aforementioned acts and omissions were done repeatedly over  
15 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and  
16 CLASS MEMBERS.

17 57. DEFENDANTS have avoided payment of wages, overtime wages, meal periods,  
18 rest periods, and other benefits as required by the California Labor Code, the California Code of  
19 Regulations, and the applicable IWC Wage Order. Further, DEFENDANTS have failed to  
20 record, report, and pay the correct sums of assessment to the state authorities under the California  
21 Labor Code and other applicable regulations.

22 58. As a result of DEFENDANTS' unfair and unlawful business practices,  
23 DEFENDANTS have reaped unfair and illegal profits during the CLASS PERIOD at the expense  
24 of PLAINTIFF, CLASS MEMBERS, and members of the public. DEFENDANTS should be  
25 made to disgorge their ill-gotten gains and to restore them to PLAINTIFF and CLASS  
26 MEMBERS.

27 59. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFF and  
28 CLASS MEMBERS to seek preliminary and permanent injunctive relief, including but not

1 limited to orders that DEFENDANTS account for, disgorge, and restore to PLAINTIFF and  
2 CLASS MEMBERS the wages and other compensation unlawfully withheld from them.  
3 PLAINTIFF and CLASS MEMBERS are entitled to restitution of all monies to be disgorged  
4 from DEFENDANTS in an amount according to proof at the time of trial, but in excess of the  
5 jurisdiction of this Court.

6 **TENTH CAUSE OF ACTION**

7 **Representative Action for Civil Penalties**

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

9 **(Against All DEFENDANTS)**

10 60. PLAINTIFF incorporates herein by specific reference as though fully set forth the  
11 allegations in all preceding paragraphs, with exception of the allegations in paragraph 15 and the  
12 subparagraphs thereto.

13 61. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor  
14 Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other  
15 current and former employees of DEFENDANTS pursuant to the procedures specified in  
16 California Labor Code § 2699.3, because PLAINTIFF and CLASS MEMBERS were employed  
17 by DEFENDANTS and the alleged violations of the California Labor Code were committed  
18 against PLAINTIFF and CLASS MEMBERS.

19 62. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”),  
20 Labor Code §§ 2698–2699.5, PLAINTIFF and CLASS MEMBERS seeks to recover civil  
21 penalties, including but not limited to penalties under California Labor Code §§ 2699, 210,  
22 226.3, 558, 1174.5, 1197.1, and IWC Wage Orders No. 7-2001, § 20, from DEFENDANTS in a  
23 representative action for the violations set forth above, including but not limited to violations of  
24 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and  
25 2802. PLAINTIFF and CLASS MEMBERS are also entitled to an award of reasonable attorneys’  
26 fees and costs pursuant to California Labor Code § 2699(g)(1).

27 63. Pursuant to California Labor Code §§ 2699.3, PLAINTIFF gave written notice on  
28 May 17, 2022 by online filing to the California Labor and Workforce Development Agency

1 (“LWDA”) and by certified mail to DEFENDANTS of the specific provisions of the California  
2 Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories  
3 to support the alleged violations. More than sixty-five (65) days have passed and the LWDA has  
4 not provided notice to PLAINTIFF that it intends to investigate the alleged violations.

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

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly  
9 situated, respectfully prays for relief against DEFENDANTS and DOES 1 through 50, inclusive,  
10 and each of them, as follows:

- 11 1. For compensatory damages in an amount to be ascertained at trial;
- 12 2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well  
13 as disgorged profits from DEFENDANTS’ unfair and unlawful business practices;
- 14 3. For meal and rest period compensation pursuant to California Labor Code § 226.7  
15 and IWC Wage Orders No. 7-2001;
- 16 4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
- 17 5. For preliminary and permanent injunctive relief enjoining DEFENDANTS from  
18 violating the relevant provisions of the California Labor Code and the IWC Wage Orders, and  
19 from engaging in the unlawful business practices complained of herein;
- 20 6. For waiting time penalties pursuant to California Labor Code § 203;
- 21 7. For statutory and civil penalties according to proof, including but not limited to all  
22 penalties authorized by the California Labor Code §§ 226(e) and §§ 2698–2699.5;
- 23 8. For interest on the unpaid wages at 10% per annum pursuant to California Labor  
24 Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable  
25 provision providing for pre-judgment interest;
- 26 9. For reasonable attorneys’ fees and costs pursuant to California Labor Code  
27 §§ 1194, 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions  
28 providing for attorneys’ fees and costs;

- 1           10.     For declaratory relief;
- 2           11.     For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth,
- 3     Seventh, Eighth, and Ninth Causes of Action as a class action;
- 4           12.     For an order appointing PLAINTIFF as class representative, and PLAINTIFF's
- 5     counsel as class counsel; and
- 6           13.     For such further relief that the Court may deem just and proper.

7

8     DATED: March 10, 2023

Respectfully submitted,

9                     **MATERN LAW GROUP, PC**

10

11                    By: \_\_\_\_\_



12                   Matthew J. Matern  
13                   Julia Z. Wells  
14                   Attorneys for Plaintiff  
15                   JESUS BARAJAS, individually, and on  
16                   behalf of other persons similarly situated

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DATED: March 10, 2023

**MATERN LAW GROUP, PC**

*Julius Müller*

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