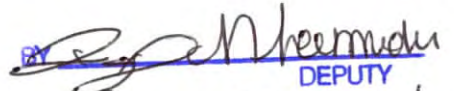


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BY 
Raquel M. Mamudu
DEPUTY

MATERN LAW GROUP, PC

Matthew J. Matern (SBN 159798)

mmatern@maternlawgroup.com

Julia Z. Wells (SBN 314242)

jwells@maternlawgroup.com

Sean P. Hardy (SBN 312987)

shardy@maternlawgroup.com

1230 Rosecrans Avenue, Suite 200

Manhattan Beach, California 90266

Telephone: (310) 531-1900

Facsimile: (310) 531-1901

Attorneys for Plaintiff MAC

ROSALES, individually, and on behalf

of others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

MAC ROSALES, individually, and on behalf
of others similarly situated,

Plaintiff,

vs.

WILLIAMS FURNACE CO., a corporation;
WILLIAMS FURNACE COMPANY, an
unknown business entity; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: **CIV SB 23 02986**

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 MAC ROSALES (“PLAINTIFF”), individually and on behalf of all other
2 similarly situated employees, demanding a jury trial, 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 WILLIAMS FURNACE
6 CO., WILLIAMS FURNACE COMPANY, and DOES 1 through 50, inclusive (collectively
7 “DEFENDANTS”) are citizens and residents of, and/or regularly conduct business in California.
8 Further, no 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 San Bernardino,
10 California because PLAINTIFF and other persons similarly situated performed work for
11 DEFENDANTS in the County of San Bernardino and many of DEFENDANTS’ unlawful actions
12 and omissions, as set forth herein, occurred in the County of San Bernardino.

13 **PLAINTIFF**

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

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

27 5. PLAINTIFF brings this action on behalf of himself and the following similarly
28 situated class of individuals (“CLASS MEMBERS”): all current and former non-exempt

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

5 **DEFENDANTS**

6 6. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT
7 WILLIAMS FURNACE CO. is, and at all times relevant hereto was, a corporation authorized to
8 conduct business in the State of California, and does conduct business in the State of California.
9 Specifically, upon information and belief, WILLIAMS FURNACE CO. maintains offices and
10 facilities and conducts business in, and engages in illegal payroll practices or policies in, the
11 County of San Bernardino, State of California.

12 7. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT
13 WILLIAMS FURNACE COMPANY is, and at all times relevant hereto was, a company
14 authorized to conduct business in the State of California, and does conduct business in the State
15 of California. Specifically, upon information and belief, WILLIAMS FURNACE COMPANY
16 maintains offices and facilities and conducts business in, and engages in illegal payroll practices
17 or policies in, the County of San Bernardino, State of California.

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

26 9. At all relevant times herein, DEFENDANTS were the joint employers of
27 PLAINTIFF and other CLASS MEMBERS. PLAINTIFF is informed and believes, and thereon
28 alleges, that at all times material to this complaint DEFENDANTS were the alter egos, divisions,

1 affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities,
2 co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or
3 ostensible, of each other. Each defendant was completely dominated by his, her, or its co-
4 defendant, and each was the alter ego of the other.

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

17 11. PLAINTIFF is informed and believes, and thereon alleges, that each and every one
18 of the acts and omissions alleged herein were performed by, and/or attributable to, all
19 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
20 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
21 and scope of said agency, employment and/or direction and control.

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

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

1 Court.

2 **CLASS ACTION DESIGNATION**

3 14. This action is appropriately suited for a Class Action because:

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

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

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

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

17 **FIRST CAUSE OF ACTION**

18 **Failure to Provide Required Meal Periods**

19 **[Cal. Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 1-2001, § 11; IWC**

20 **Wage Order No. 16-2001, § 11]**

21 **(Against all DEFENDANTS)**

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

24 16. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies
25 and practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS
26 required, permitted or otherwise suffered PLAINTIFF and CLASS MEMBERS to take less than
27 the 30-minute meal period, or to work through them, and have failed to otherwise provide the
28 required meal periods to PLAINTIFF and CLASS MEMBERS pursuant to California Labor Code

1 § 226.7, 512 IWC Order No. 16-2001, § 11 and IWC Order No. 1-2001, § 11.

2 17. DEFENDANTS further violated California Labor Code §§ 226.7 and IWC Wage
3 Order Nos. 1-2001, § 11 and 16-2001 § 11 by failing to compensate PLAINTIFF and CLASS
4 MEMBERS who were not provided with a meal period, in accordance with the applicable wage
5 order, one additional hour of compensation at each employee's regular rate of pay for each
6 workday that a meal period was not provided.

7 18. DEFENDANTS further violated California Labor Code §§ 226.7, 510, 1194,
8 1197, IWC Wage Order No. 1-2001 and 16-2001 § 11 by failing to compensate PLAINTIFF and
9 CLASS MEMBERS for all hours worked during their meal periods.

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

13 **SECOND CAUSE OF ACTION**

14 **Failure to Provide Required Rest Periods**

15 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 1-2001, § 12; IWC Wage Order No.**
16 **16-2001, § 12]**

17 **(Against all DEFENDANTS)**

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

20 21. At all times relevant herein, as part of DEFENDANTS' illegal payroll policies and
21 practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS
22 failed to provide rest periods to PLAINTIFF and CLASS MEMBERS as required under
23 California Labor Code §§ 226.7 and 512, IWC Wage Order No. 1-2001, § 12 and IWC Wage
24 Order No. 16-2001, § 12.

25 22. DEFENDANTS further violated California Labor Code § 226.7 IWC Wage Order
26 No. 1-2001, § 12 and IWC Wage Order No. 16-2001, § 12 by failing to pay PLAINTIFF and
27 CLASS MEMBERS who were not provided with a rest period, in accordance with the applicable
28 wage order, one additional hour of compensation at each employee's regular rate of pay for each

1 workday that a rest period was not provided.

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

5 **THIRD CAUSE OF ACTION**

6 **Failure to Pay Overtime Wages**

7 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 1-2001, § 3; IWC Wage Order**
8 **No. 16-2001, § 3]**

9 **(Against all DEFENDANTS)**

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

12 25. Pursuant to California Labor Code §§ 510, 1194, IWC Wage Order No. 1-2001, §
13 3 and IWC Wage Order No. 16-2001, § 3, DEFENDANTS are required to compensate
14 PLAINTIFF and CLASS MEMBERS for all overtime, which is calculated at one and one-half (1
15 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or
16 forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday,
17 with double time for all hours worked in excess of twelve (12) hours in any workday and for all
18 hours worked in excess of eight (8) hours on the seventh consecutive day of work in any
19 workweek.

20 26. PLAINTIFF and CLASS MEMBERS are current and former non-exempt
21 employees entitled to the protections of California Labor Code §§ 510, 1194, IWC Wage Order
22 No. 1-200 and IWC Wage Order No. 16-2001. During the CLASS PERIOD, DEFENDANTS
23 failed to compensate PLAINTIFF and CLASS MEMBERS for all overtime hours worked as
24 required under the foregoing provisions of the California Labor Code and IWC Wage Order by,
25 among other things: failing to pay overtime at one and one-half (1 ½) or double the regular rate of
26 pay as provided by California Labor Code §§ 510, 1194, IWC Wage Order No. 1-2001, § 3 and
27 IWC Wage Order No. 16-2001, § 3; requiring, permitting or suffering PLAINTIFF and CLASS
28 MEMBERS to work off the clock; requiring, permitting or suffering PLAINTIFF and CLASS

1 MEMBERS to work through meal and rest breaks; illegally and inaccurately recording time in
2 which PLAINTIFF and CLASS MEMBERS worked; failing to properly maintain PLAINTIFF's
3 and CLASS MEMBERS' records; failing to provide accurate itemized wage statements to
4 PLAINTIFF for each pay period; failing to properly pay employees reporting time on occasions
5 when they were required to report for work, and did report, but were not put to work or were
6 furnished less than half of their usual or scheduled day's work; failing to include all forms of
7 remuneration when calculating the regular rate of pay for purposes of paying overtime; and other
8 methods to be discovered.

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

16 28. DEFENDANTS' conduct described herein violates California Labor Code §§ 510,
17 1194, 1198 IWC Wage Order No. 1-2001, § 3 and IWC Wage Order No. 16-2001, § 3.
18 Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and other
19 applicable provisions under the California Labor Code and IWC Wage Orders, PLAINTIFF and
20 CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by
21 DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

22 **FOURTH CAUSE OF ACTION**

23 **Failure to Pay Minimum Wages**

24 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 1-2001, § 4; IWC Wage Order No. 1-**
25 **2001, § 4]**

26 **(Against all DEFENDANTS)**

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

30. Pursuant to California Labor Code §§ 1194, 1197, IWC Wage Order No. 1-2001, § 4 and IWC Wage Order No. 16-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

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

32. DEFENDANTS' conduct described herein violates California Labor Code §§ 1194, 1197, IWC Wage Order No. 16-2001, § 4 and IWC Wage Order No. 1-2001, § 4. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the Labor Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

FIFTH CAUSE OF ACTION

Failure to Pay All Wages Due to Discharged and Quitting Employees

[Cal. Labor Code §§ 201, 202, 203]

(Against all DEFENDANTS)

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

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

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

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

13 37. During the CLASS PERIOD, DEFENDANTS have willfully failed to pay accrued
14 wages and other compensation to PLAINTIFF and CLASS MEMBERS in accordance with
15 California Labor Code §§ 201 and 202.

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

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

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44. During the CLASS PERIOD, DEFENDANTS routinely failed to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in writing showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, the name and address of the legal entity or entities employing PLAINTIFF and CLASS MEMBERS, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of California Labor Code § 226, IWC Wage Order No. 16-2001, § 7 and IWC Wage Order No. 1-2001, § 7.

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

46. 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 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.

EIGHTH CAUSE OF ACTION

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

[Cal. Labor Code § 2802]

(Against all DEFENDANTS)

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

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

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

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

13 **NINTH CAUSE OF ACTION**

14 **Unfair and Unlawful Business Practices**

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

16 **(Against all DEFENDANTS)**

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

19 52. Each and every one of DEFENDANTS' acts and omissions in violation of the
20 California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but
21 not limited to DEFENDANTS' failure and refusal to provide required meal periods,
22 DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and
23 refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum
24 wages, DEFENDANTS' failure and refusal to pay all wages due to discharged or quitting
25 employees, DEFENDANTS' failure and refusal to furnish accurate itemized wage statements;
26 DEFENDANTS' failure and refusal to maintain required records, DEFENDANTS' failure and
27 refusal to indemnify PLAINTIFF and CLASS MEMBERS for necessary expenditures and/or
28 losses incurring in discharging their duties, constitutes an unfair and unlawful business practice

1 under California Business and Professions Code § 17200 et seq.

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

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

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

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

23 **TENTH CAUSE OF ACTION**

24 **Representative Action for Civil Penalties**

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

26 **(Against All DEFENDANTS)**

27 57. PLAINTIFF incorporates herein by specific reference as though fully set forth the
28 allegations in all preceding paragraphs, with exception of the allegations in paragraph 14 and the

1 subparagraphs thereto.

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

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

17 60. Pursuant to California Labor Code §§ 2699.3, PLAINTIFF gave written notice on
18 January 23, 2023 by online filing to the California Labor and Workforce Development Agency
19 (“LWDA”) and by certified mail to DEFENDANTS of the specific provisions of the California
20 Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories
21 to support the alleged violations. More than sixty-five (65) days have passed and the LWDA has
22 not provided notice to PLAINTIFF that it intends to investigate the alleged violations.

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

25 **PRAYER FOR RELIEF**

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

1. For compensatory damages in an amount to be ascertained at trial;
2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well as disgorged profits from DEFENDANTS' unfair and unlawful business practices;
3. For meal and rest period compensation pursuant to California Labor Code § 226.7 and IWC Wage Order Nos. 1-2001 and 16-2001;
4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
5. For preliminary and permanent injunctive relief enjoining DEFENDANTS from violating the relevant provisions of the California Labor Code and the IWC Wage Orders, and from engaging in the unlawful business practices complained of herein;
6. For waiting time penalties pursuant to California Labor Code § 203;
7. For statutory and civil penalties according to proof, including but not limited to all penalties authorized by the California Labor Code §§ 226(e) and §§ 2698–2699.5;
8. For interest on the unpaid wages at 10% per annum pursuant to California Labor Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment interest;
9. For reasonable attorneys' fees and costs pursuant to California Labor Code §§ 1194, 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions providing for attorneys' fees and costs;
10. For declaratory relief;
11. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Causes of Action as a class action;
12. For an order appointing PLAINTIFF as class representative, and PLAINTIFF's counsel as class counsel; and

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

DATED: January 23, 2023

Respectfully submitted,

MATERN LAW GROUP, PC

By:



Matthew J. Matern

Sean P. Hardy

Julia Z. Wells

Attorneys for Plaintiff

MAC ROSALES, individually, and on
behalf of others similarly situated

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DATED: January 23, 2023

MATERN LAW GROUP, PC


Matthew J. Matern

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