

MARALLE MESSRELIAN (SBN 316974)

maralle@mmlawapc.com

MM LAW, APC

500 N. Brand Blvd., Suite 2000

Glendale, CA 91203

Telephone (818) 810-7747

Facsimile (818) 230-9018

Per local Rule, This case is assigned to
Judge Weil, Edward G, for all purposes.

Attorneys for Plaintiff,

ULISES TABARES, and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA
(UNLIMITED JURISDICTION)**

ULISES TABARES, on behalf of himself and
all others similarly situated, and the general
public, and as an “Aggrieved Employee” on
behalf of other “Aggrieved Employees” under
the Private Attorneys General Act of 2004,

Plaintiff,

vs.

C FER CONSTRUCTION INC, a California
corporation; CARLOS FERNANDO
BECERRA DIAZ, an individual; and DOES 1
to 25, inclusive,

Defendants.

SUMMONS ISSUED

Case No.: C25-03482

CLASS ACTION

COMPLAINT FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked at the Correct Rates of Pay (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);
- 7) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 8) Failure to Provide Sick Leave (Lab. Code § 246 *et seq.*);
- 9) Civil Penalties (Lab Code §§ 2698, *et seq.*); and
- 10) Unfair Competition (Bus. & Prof. Code, § 17200 *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff, ULISES TABARES (hereafter “Plaintiff”), on behalf of himself and all
2 others similarly situated, complains and alleges as follows:

3 **I. INTRODUCTION**

4 1. Plaintiff brings this class and representative action based on alleged violations
5 of the California Labor Code, Industrial Welfare Commission Order No. 16-2001 (hereafter
6 “the Wage Order”), and the California Business and Professions Code against C FER
7 CONSTRUCTION INC, a California corporation; CARLOS FERNANDO BECERRA DIAZ,
8 an individual; and DOES 1 to 25, inclusive (collectively “ C FER CONSTRUCTION” or
9 “Defendants”).

10 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
11 him and other similarly situated workers for unpaid wages, statutory penalties, interest, and
12 related relief. These claims are based on Defendants’ failures to:

13 (A) Pay all wages, including minimum, regular, overtime and doubletime
14 wages, earned for all hours worked at the correct rates of pay;

15 (B) Provide all meal periods;

16 (C) Authorize and permit all rest breaks;

17 (D) Pay premium wages for unprovided meal periods;

18 (E) Pay premium wages for unprovided rest breaks;

19 (F) Indemnify for necessary work-related expenditures;

20 (G) Issue only accurate and complete itemized wage statements; and

21 (H) Timely pay wages during and upon termination of employment.

22 Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages,
23 restitution, statutory penalties, civil penalties, attorneys’ fees, costs, and related relief through
24 this class and representative action.

25 **II. THE PARTIES**

26 3. Plaintiff ULISES TABARES is a resident of California. At all relevant times,
27 Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations
28 Section 11160 and an “Aggrieved Employee” within the meaning of Labor Code Section

1 2699(c).

2 4. At all times mentioned herein, Defendant C FER CONSTRUCTION INC is
3 and was a California corporation, doing business in the county of Contra Costa and which
4 employed Plaintiff. As such, it is a citizen of California based on Plaintiff's information and
5 belief.

6 5. Defendant CARLOS FERNANDO BECERRA DIAZ is a citizen of California
7 based on Plaintiffs' information and belief

8 6. In relevant part, Labor Code section 558.1 states:

9 (a) Any employer or other person acting on behalf of an employer, who violates,
10 or causes to be violated, any provision regulating minimum wages or hours and
11 days of work in any order of the Industrial Welfare Commission, or violates, or
causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
held liable as the employer for such violation.

12 7. Based on Plaintiffs' information and belief, Defendant CARLOS FERNANDO
13 BECERRA DIAZ is a natural person, and an owner, director, officer, and/or managing agent of
14 Defendant C FER CONSTRUCTION INC, who directly or indirectly, or through his agent,
15 employed or exercised control over the wages, hours, or working conditions of Plaintiff and the
16 Class (defined below). Therefore, he is liable to Plaintiff and the Class for his violations of, or
17 causing Defendants to violate, Labor Code sections 203, 226, 226.7, 1194, and 2802 pursuant
18 to Labor Code section 558.1.

19 8. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
20 participation in the conduct alleged herein, of the defendants sued as DOES 1-25, inclusive, but
21 is informed and believes and thereon alleges that said defendants are legally responsible for the
22 wrongful conduct alleged herein and therefore sues these defendants by such fictitious names.
23 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE
24 defendants when ascertained.

25 9. Plaintiff is informed and believes and thereon alleges that, at all relevant times
26 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
27 remaining defendants, and in doing the things hereinafter alleged, were acting within the course
28 and scope of such agency or employment, and with the approval and ratification of each of the

1 other Defendants.

2 10. At all relevant times, in perpetrating the acts and omissions alleged herein,
3 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a
4 lack of a practice which resulted in Defendants not compensating Plaintiff and the other Class
5 Members or otherwise complying with their rights in accordance with applicable California
6 labor laws as alleged herein.

7 11. At all relevant times, in perpetrating the acts and omissions alleged herein,
8 Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice,
9 or lack thereof, which resulted in Defendants not paying Plaintiff and other members of the
10 below-described class in accordance with applicable laws as alleged herein.

11 **III. CLASS ALLEGATIONS**

12 12. This action has been brought and may be maintained as a class action pursuant
13 to California Code of Civil Procedure section 382 because there is a well-defined community
14 of interest among the persons who comprise the readily ascertainable class defined below and
15 because Plaintiff is unaware of any difficulties likely to be encountered in managing this case
16 as a class action.

17 13. **Class Definition:** The Class is defined as follows: All persons Defendants
18 employed in California as hourly, non-exempt employees, at any time during the period
19 beginning four years prior to the filing of this action and ending on the date that final judgment
20 is entered in this action (“Class” or “Class Members”).

21 14. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves
22 the right to amend or modify the class definition with greater specificity, by further division
23 into subclasses and/or by limitation to particular issues.

24 15. **Numerosity:** The Class Members are so numerous that the individual joinder
25 of each individual Class Member is impractical. While Plaintiff does not currently know the
26 exact number of Class Members, Plaintiff is informed and believes that the actual number
27 exceeds the minimum required for numerosity under California laws.

28 16. **Commonality and Predominance:** Common questions of law and fact exist as

1 to all Class Members and predominate over any questions which affect only individual Class
2 Members. These questions include, but are not limited to:

3 A. Whether Defendants failed to pay all wages earned to Class Members for
4 all hours worked at the correct rates of pay, including minimum, regular, overtime, doubletime,
5 meal period premium and rest period premium wages;

6 B. Whether Defendants failed to provide the Class Members with all meal
7 periods in compliance with California law;

8 C. Whether Defendants failed to authorize and permit the Class Members to
9 take all rest periods in compliance with California law;

10 D. Whether Defendants failed to indemnify the Class Members for the
11 reasonable expenses they incurred during the course of performing their duties;

12 E. Whether Defendants knowingly and intentionally failed to provide the
13 class with accurate and complete itemized wage statements;

14 F. Whether Defendants willfully failed to provide the class with timely
15 wages during and upon termination of employment;

16 G. Whether Defendants failed to provide the Class Members with paid sick
17 leave;

18 H. Whether Defendants failed to maintain accurate employment records
19 pertaining to all of the Class Members;

20 I. Whether Defendants engaged in unfair competition within the meaning of
21 Business and Professions Code sections 17200, et seq., with respect to the Class; and

22 J. Whether Class Members are entitled to restitution of money or property
23 that Defendants may have acquired from them through alleged Labor Code violations.

24 17. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims.
25 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
26 practice, or lack thereof, which resulted in Defendants failing to comply with the California
27 Labor Code, the Wage Order, and the Business and Professions Code.

28 18. **Adequacy of Class Representative:** Plaintiff is an adequate class

1 representative in that he has no interests that are adverse to, or otherwise in conflict with, the
2 interests of absent Class Members. Plaintiff is dedicated to vigorously prosecuting this action
3 on behalf of Class Members. Plaintiff will fairly and adequately represent and protect the
4 interests of Class Members.

5 19. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in
6 that they have no known conflicts of interest with Plaintiff or absent Class Members, are
7 experienced in class action litigation, and are dedicated to vigorously prosecuting this action
8 on behalf of Plaintiff and absent Class Members.

9 20. **Superiority:** A class action is vastly superior to other available means for fair
10 and efficient adjudication of Class Members' claims and would be beneficial to the parties and
11 the Court. Class action treatment will allow a number of similarly situated persons to
12 simultaneously and efficiently prosecute their common claims in a single forum without the
13 unnecessary duplication of effort and expense that numerous individual actions would entail.
14 In addition, the monetary amounts due to many individual Class Members are likely to be
15 relatively small and would thus make it difficult, if not impossible, for individual Class
16 Members to both seek and obtain relief. Moreover, a class action will serve an important
17 public interest by permitting Class Members to effectively pursue the recovery of monies
18 owed to them. Further, a class action will prevent the potential for inconsistent or
19 contradictory judgments inherent in individual litigation.

20 **IV. STATEMENT OF FACTS**

21 21. The Wage Order applies to "all job classifications associated with construction,
22 including but not limited to work involving alteration, demolition, building, excavation,
23 renovation, remodeling, maintenance, improvement, and repair work, by the California
24 Business and Professions Code, Division 3, Chapter 9, Sections 7025 et seq., and any other
25 similar or related occupations or trades. (§ 2(C)). At all relevant times during the applicable
26 limitations period, C FER CONSTRUCTION, Plaintiff, and the Class Members were covered
27 by the Wage Order because Plaintiff and the Class Members worked for C FER
28 CONSTRUCTION as laborers and in similar occupations associated with construction.

1 Accordingly, Plaintiff and the Class Members are entitled to the protections provided under
2 the Wage Order.

3 22. C FER CONSTRUCTION first began to employ Plaintiff as a laborer in or
4 around November 2023. Plaintiff generally worked Monday through Friday from
5 approximately 8:00 a.m. to 4:30 p.m. Plaintiff's employment ended on or around November
6 25, 2024.

7 23. At all relevant times, C FER CONSTRUCTION issued wages to Plaintiff and
8 all of the other Class Members on a biweekly basis and paid them by the hour. At all relevant
9 times, Plaintiff and all of the other Class Members as non-exempt employees entitled to the
10 protections of the Labor Code and the Wage Order. Plaintiff's latest hourly rate of pay was
11 \$25.00 per hour.

12 24. C FER CONSTRUCTION failed to pay Plaintiff and the other Class Members
13 for all time worked or subject to its control. This is so because the company had a policy of
14 rounding down the number of hours worked, resulting in "time shaving", especially since there
15 was no formal clock-in/clock-out and timekeeping system at the workplace and management
16 (usually the foreman "Luis") would record Plaintiff and other employees' work hours. As
17 such, Plaintiff and all of the other Class Members were not paid for all hours worked,
18 including the minimum wage. Furthermore, C FER CONSTRUCTION
19 ownership/management would often instruct Plaintiff to take machines to different locations
20 outside of his scheduled shifts. C FER CONSTRUCTION did not pay Plaintiff for this off-the-
21 clock work. Plaintiff would also consistently receive calls/texts from the foreman Luis
22 concerning work matters before the start of his shifts or after his shifts had already ended.
23 Finally, C FER CONSTRUCTION required Plaintiff and the other employees to use their own
24 personal tools and did not pay Plaintiff and others twice the minimum wage rate in violation of
25 Wage Order 16-2001, section 8(B).

26 25. C FER CONSTRUCTION failed to pay Plaintiff and the Class Members
27 properly-calculated overtime wages even though they worked more than 8 hours per day
28 and/or 40 hours per week throughout their employment. Plaintiff's and the Class Members'

1 actual work hours (including the “off the clock” hours mentioned above) entitled them to
2 overtime compensation. However, C FER CONSTRUCTION did not compensate Plaintiff and
3 the Class Members with the correct amount of overtime. It was not company policy to keep
4 accurate track of all hours worked and to pay employees the accurate amount of overtime,
5 especially since the “off the clock” work was not factored into the equation. Furthermore, any
6 incentive payments and/or bonus payments were not factored into employees’ regular rate of
7 pay for purposes of deciphering the correct overtime rate of pay. In addition, any bonus and/or
8 incentive payments were not factored into the correct sick pay wages and meal and rest break
9 premium pay per *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

10 26. C FER CONSTRUCTION failed to provide all compliant meal periods and
11 authorize and permit all compliant rest periods to which Plaintiff and the other Class Members
12 were entitled. Plaintiff and the other Class Members were entitled to take off-duty,
13 uninterrupted 30-minute meal periods before the fifth and tenth hours of work and to take
14 uninterrupted 10-minute rest periods for every four hours or major fraction thereof worked.
15 Due to the workload and pressure from management, Plaintiff and the other Class Members
16 would not be able to take timely, uninterrupted meal periods before the 5th or 10th hour
17 worked. When Plaintiff and the other Class Members took their meal periods, C FER
18 CONSTRUCTION management, including foreman Luis, would interrupt them with
19 questions about work related matters or their meal periods were cut short due to their
20 workload. On information and belief, C FER CONSTRUCTION did not keep track of
21 Plaintiff’s and the Class Members’ meal periods. Per *Donohue v. AMN Services, LLC*, (2021)
22 11 Cal.5th 58, where time records do not facially show an employee took a compliant meal
23 period, a rebuttable presumption arises that the employer failed to provide it, giving rise to a
24 meal period violation. Similarly, Plaintiff and the other Class Members were not able to take
25 compliant rest breaks due to the workload. As such, the culture as well as the policies and
26 procedures of C FER CONSTRUCTION did not lend itself to the employees receiving
27 consistent statutory rest breaks wherein they were relieved of all work duties. The
28 environment at C FER CONSTRUCTION was not conducive to receiving multiple statutory

1 rest breaks under California law and timely, statutory rest breaks were not authorized or
2 enforced. On information and belief, C FER CONSTRUCTION did not provide premium
3 wages for these meal and rest break violations; if C FER CONSTRUCTION did provide
4 premium wages, they were not paid at the correct rate, as explained above.

5 27. C FER CONSTRUCTION failed to reimburse Plaintiff and the other Class
6 Members for business expenses they incurred in direct consequence of the discharge of their
7 duties. C FER CONSTRUCTION required Plaintiff and the other Class Members to use their
8 own personal tools (including, but not limited to, saw, hammers, bag, drills), as well their own
9 personal vehicles to effectuate their job duties. C FER CONSTRUCTION also required
10 Plaintiff and the other Class Members to use their own personal mobile phones to
11 communicate with management concerning work matters. However, C FER
12 CONSTRUCTION did not reimburse Plaintiff and the other Class Members for these tools,
13 mobile phone and gas/mileage expenses. Accordingly, C FER CONSTRUCTION was in
14 violation of California Labor Code sections 2800 and 2802.

15 28. C FER CONSTRUCTION failed to pay its employees all wages due to them
16 within any time period specified by California Labor Code section 204, including the
17 minimum wages and overtime as described above as well as meal/rest break premiums.

18 29. Moreover, C FER CONSTRUCTION failed to provide paid sick leave to
19 Plaintiff and the other Class Members in violation of Labor Code sections 233 and 246. C FER
20 CONSTRUCTION also failed to provide Plaintiff and all of the other Class Members with an
21 itemized wage statement or separate writing that set forth the amount of paid sick leave
22 available.

23 30. C FER CONSTRUCTION did not provide Plaintiff and the other Class
24 Members accurate, itemized wage statements in violation of Labor Code 226. Wage
25 statements must include all hours worked, overtime hours worked, all applicable hourly rates,
26 the correct legal name and address of employer entity, gross wages earned, all deductions, net
27 wages earned, reimbursement for business expenses, the correct start and end of the applicable
28 pay period, the employee ID numbers or social security numbers, among other items. Labor

1 Code § 226(a)(2). C FER CONSTRUCTION's failure to maintain accurate records as to the
2 hours worked daily by employees also constitutes a violation of Labor Code section 1174(d).

3 31. Finally, because C FER CONSTRUCTION did not properly pay all wages
4 earned as explained herein, C FER CONSTRUCTION also failed to pay final wages owed to
5 the Class Members in violation of Labor Code section 203. These earned but unpaid wages
6 include minimum wages and compensation for all hours worked, overtime compensation,
7 premium pay for missed meal and rest breaks, and business expense reimbursement, among
8 others.

9 32. C FER CONSTRUCTION has also violated Labor Code section 558 and
10 engaged in business practices which violate Business and Professions Code Section 17200.

11 33. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
12 unlawful practices and policies, Plaintiff and the Class Members were:

- 13 A. Not provided with all off duty meal periods;
- 14 B. Not authorized and permitted to take all rest break periods;
- 15 C. Not paid one hour's pay for each workday in which Defendants failed to
16 authorize and permit them to take one or more timely rest periods;
- 17 D. Not paid one hour's pay for each workday in which Defendants failed to
18 provide them with one or more timely meal periods;
- 19 E. Not paid all wages earned, including, but not limited to, minimum,
20 regular, overtime, and doubletime wages for work performed while clocked out;
- 21 F. Not indemnified for all necessary business expenditures incurred during
22 the discharge of their duties;
- 23 G. Not provided with paid sick leave and statement or separate writing that
24 set forth the amount of paid sick leave available;
- 25 H. Not provided with accurate and complete wage statements; and
- 26 I. Not timely paid all earned and unpaid wages during employment and at
27 the time their employment ended.

28 ///

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

3 **AT THE CORRECT RATES OF PAY**

4 **(Lab. Code §§ 510, 1194, 1197, and 1198)**

5 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

6 34. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

7 35. At all relevant times, Plaintiff and the Class Members have been employees of
8 Defendants and entitled to the benefits and protections of California Labor Code §§ 510, 1194,
9 1197, and 1198, and the Wage Order.

10 36. Section 2(H) of the Wage Order defines “hours worked” as “the time during
11 which an employee is subject to the control of an employer, and includes all the time the
12 employee is suffered or permitted to work, whether or not required to do so.”

13 37. Section 3 of the Wage Order states:

14 **(A) Daily Overtime - General Provisions**

15 (1) The following overtime provisions are applicable to
16 employees 18 years of age or over and to employees 16 or
17 17 years of age who are not required by law to attend
18 school and are not otherwise prohibited by law from
19 engaging in the subject work. Such employees shall not
20 be employed more than eight (8) hours in any workday or
21 more than 40 hours in any workweek unless the employee
22 receives one and one-half (1 ½) times such employee’s
23 regular rate of pay for all hours worked over 40 hours in
24 the workweek. Eight (8) hours of labor constitutes a day’s
25 work. Employment beyond eight (8) hours in any
26 workday or more than six (6) days in any workweek is
27 permissible provided the employee is compensated for
28 such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s
regular rate of pay for all hours worked in excess
of eight (8) hours up to and including 12 hours in
any workday, and for the first eight (8) hours
worked on the seventh (7th) consecutive day of
work in a workweek.

(b) Double the employee’s regular rate of pay for

all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

38. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consist of all hours that an employer has actual or constructive knowledge that employees are working.

39. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

40. California Labor Code § 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

41. California Labor Code § 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

42. California Labor Code § 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

43. In conjunction, these provisions of the California Labor Code require employers to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including unrecorded hours when the employer knew or reasonably should

1 have known that employees were working during those hours. (*See Morillion v. Royal Packing*
2 *Co.* (2000) 22 Cal.4th 575, 585.)

3 44. With respect to overtime wages, the regular rate of pay under California law
4 must include “all remuneration for employment paid to, on behalf of, the employee.” O.L.
5 2002.06.14 (quoting 29 U.S.C. § 207E). This requirement includes, but is not limited to
6 bonuses. *See, e.g., Huntington Memorial Hosp. v. Superior Court* (2005) 131 Cal. App. 4th 893,
7 904–05. Bonuses must be included in the regular rate whether they are the sole source of the
8 employee’s compensation or are in addition to a guaranteed salary or hourly rate. 29 C.F.R. §§
9 778.117, 778.208. *See Oliver v. Mercy Med. Ctr., Inc.* (9th Cir. 1982) 695 F.2d 379.

10 45. As described above, at all relevant times during the applicable limitations
11 period, Defendants failed to compensate Plaintiff and the Class Members for all hours worked,
12 including, but not limited to minimum, regular, overtime and doubletime wages for all
13 minimum, regular, overtime and doubletime hours, respectively, that they worked at the
14 correct rates of pay.

15 46. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
16 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants’
17 failure to compensate Plaintiff and the other Class Members for all hours worked at the correct
18 rates of pay as required by California law.

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PROVIDE REST BREAKS**

21 **(Lab. Code §§ 226.7 and 1198)**

22 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

23 47. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

24 48. At all relevant times during the applicable limitations period, Plaintiff and the
25 Class Members have been employees of Defendants and entitled to the benefits and
26 protections of California Labor Code §§ 226.7 and 1198, and the Wage Order.

27 49. In relevant part, Labor Code § 1198 states,

28 “The maximum hours of work and the standard conditions of labor
fixed by the commission shall be the maximum hours of work and the

1 standard conditions of labor for employees. The employment of any
2 employee for longer hours than those fixed by the order or under
3 conditions of labor prohibited by the order is unlawful.”

4 50. In relevant part, Section 12 of the Wage Order states:

5 Rest Periods:

6 (A) Every employer shall authorize and permit all employees
7 to take rest periods, which insofar as practicable shall be in the
8 middle of each work period. The authorized rest period time
9 shall be based on the total hours worked daily at the rate often
10 (10) minutes net rest time per four (4) hours or major fraction
11 thereof. However, a rest period need not be authorized for
12 employees whose total daily work time is less than three and
13 one-half (3 1/2) hours. Authorized rest period time shall be
14 counted as hours worked for which there shall be no deduction
15 from wages.

16 (B) If an employer fails to provide an employee a rest period
17 in accordance with the applicable provisions of this Order, the
18 employer shall pay the employee one (1) hour of pay at the
19 employee’s regular rate of compensation for each work day that
20 the rest period is not provided.

21 51. In addition, Labor Code Section 226.7 states

22 (b) An employer shall not require an employee to work during a
23 meal or rest or recovery period mandated pursuant to an applicable
24 statute, or applicable regulation, standard, or order of the Industrial
25 Welfare Commission, the Occupational Safety and Health Standards
26 Board, or the Division of Occupational Safety and Health.

27 (c) If an employer fails to provide an employee a meal or rest or
28 recovery period in accordance with a state law, including, but not
limited to, an applicable statute or applicable regulation, standard, or
order of the Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of Occupational Safety and
Health, the employer shall pay the employee one additional hour of pay
at the employee's regular rate of compensation for each workday that
the meal or rest or recovery period is not provided.

52. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to
be provided with net rest breaks of at least ten minutes for each four-hour period of work, or
major fraction thereof.

53. Defendants intentionally failed to authorize and permit Plaintiff and the Class

1 Members to take all 10-minute rest periods free from any work duties in accordance with the
2 Wage Order.

3 54. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
4 Class Members to take all timely rest periods. Furthermore, Defendants failed to pay premium
5 wages to Plaintiff and the Class Members for days on which they failed to authorize and
6 permit Plaintiff and the other Class Members to take timely rest periods.

7 55. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
8 Class Members to take ten-minute, paid, duty-free rest breaks every four hours worked or
9 major fraction thereof. Defendants did not seek an exemption from the rest period protections
10 of the Wage Order from the California Division of Labor Standards Enforcement. Moreover,
11 Defendants failed to pay Plaintiff and the Class Members premium wages on workdays they
12 failed to authorize and permit them to take 10-minute rest periods every four hours worked or
13 major fraction thereof.

14 56. Plaintiff is informed and believes and thereon alleges that, at all relevant times
15 within the applicable limitations period, Defendants had a policy, practice, or a lack of a
16 policy which resulted in Defendants not authorizing and permitting Plaintiff and the Class
17 Members to
18 take all rest breaks required by California law.

19 57. Defendants failed to provide Plaintiff with all required rest breaks in
20 accordance with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at
21 relevant times within the applicable limitations period, Defendants had a policy, practice, or a
22 lack of a policy which resulted in Defendants not providing the Class Members with all rest
23 breaks required by California law.

24 58. Defendants failed to pay Plaintiff the additional wages required by California
25 Labor Code § 226.7 for all rest breaks not provided to him. Plaintiff is informed and believes
26 and thereon alleges that, at relevant times within the applicable limitations period, Defendants
27 have maintained a policy, practice, or a lack of a policy which resulted in Defendants not
28 providing the Class Members with additional wages for all rest breaks not provided to them as

1 required by California Labor Code § 226.7.

2 59. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members
3 have suffered damages in amounts subject to proof to the extent they were not paid additional
4 wages owed for all rest breaks not provided to them.

5 60. By reason of the above, Plaintiff and the Class Members are entitled to
6 premium wages for workdays in which one or more rest breaks were not provided to them
7 pursuant to California Labor Code § 226.7.

8 **THIRD CAUSE OF ACTION**

9 **FAILURE TO PROVIDE MEAL PERIODS**

10 **(Lab. Code §§ 226.7, 512, and 1198)**

11 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

12 61. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

13 62. At all relevant times during the applicable limitations period, Plaintiff and the
14 Class Members have been employees of Defendants and entitled to the benefits and
15 protections of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

16 63. In relevant part, Labor Code § 1198 states,
17 "The maximum hours of work and the standard conditions of labor
18 fixed by the commission shall be the maximum hours of work and the
19 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful."

20 64. In relevant part, Labor Code Section 512 states
21 "An employer may not employ an employee for a work period of more
22 than five hours per day without providing the employee with a meal
23 period of not less than 30 minutes, except that if the total work period
24 per day of the employee is no more than six hours, the meal period may
be waived by mutual consent of both the employer and employee. An
25 employer may not employ an employee for a work period of more than
10 hours per day without providing the employee with a second meal
26 period of not less than 30 minutes, except that if the total hours worked
is no more than 12 hours, the second meal period may be waived by
27 mutual consent of the employer and the employee only if the first meal
period was not waived."

28 65. In relevant part, Section 11 of the Wage Order states:

Meal Periods:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee...

(D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

66. In relevant part, California Labor Code § 226.7 states:

(b) An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal period or rest period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

67. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the Class Members were entitled to be provided with uninterrupted meal periods of at least 30 minutes for each day they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled to a second 30-minute meal period when they worked more than ten (10) hours in a workday.

68. As described above, Defendants intentionally failed to provide Plaintiff and the Class Members with all required 30-minute duty free meal periods in accordance with the Wage Order. Furthermore, Defendants failed to pay premium wages for days on which they failed to provide Plaintiff and the other Class Members with timely meal periods.

69. Plaintiff is informed and believes and thereon alleges that, at all relevant times within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which resulted in Defendants not providing Plaintiff and the Class Members with all timely and off-duty meal periods required by California law.

70. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have suffered damages in amounts subject to proof to the extent they were not paid additional wages owed for all meal periods not provided to them.

71. By reason of the above, Plaintiff and the Class Members are entitled to premium wages for workdays in which one or more meal periods were not provided to them pursuant to California Labor Code § 226.7.

FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code §§ 1198 & 2802)

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

72. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

73. At all relevant times, Plaintiff and the Class Members were employees of Defendants and entitled to the benefits and protections of the California Labor Code §§ 1198 and 2802, and the Wage Order.

74. In pertinent part, California Labor Code § 2802(a) states: “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.” Additionally, the Wage Order states,

(A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.

• • •

(B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide

1 and maintain hand tools and equipment customarily required by the particular
2 trade or craft in conformity with Labor Code Section 2802.

3 Wage Order, § 9(A) and (B).

4 75. California Labor Code § 1198 prohibits employers from employing their
5 employees under conditions prohibited by the Wage Order.

6 76. As described above, at all relevant times, Defendants required Plaintiff and the
7 Class Members to incur certain business expenses in the course of performing their duties,
8 including but not limited to use of their own personal vehicles, tools, and mobile phones in
9 effectuating their job duties. However, Defendants did not provide these items and did not
10 reimburse Plaintiff and the Class Members for these business expenses.

11 77. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
12 Defendants have maintained a policy, practice, or a lack of a policy which resulted in
13 Defendants' failure to indemnify Plaintiff and the Class Members for the reasonable expenses
14 they incurred during the course of performing their duties.

15 78. Accordingly, with respect to this cause of action, on behalf of himself and the
16 Class Members, Plaintiff prays for the above stated relief, costs, and all reasonable attorneys'
17 fees pursuant to Labor Code § 2802(c) and as otherwise permitted by law.

18 **FIFTH CAUSE OF ACTION**

19 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

20 **(California Labor Code Section 226)**

21 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

22 79. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

23 80. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members
24 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate
25 itemized statement showing:

26 A. Gross wages earned;

27 B. Total hours worked by the employee, except for any employee whose
28 compensation is solely based on a salary and who is exempt from payment of overtime under
subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

1 C. The number of piece rate units earned and any applicable piece rate if the
2 employee is paid on a piece-rate basis;

3 D. All deductions, provided that all deductions made on written orders of the
4 Employee may be aggregated and shown as one item;

5 E. Net wages earned;

6 F. The inclusive dates of the period for which the employee is paid;

7 G. The name of the employee and his or her social security number, except
8 that by January 1, 2008, only the last four digits of his or her social security number or an
9 employee identification number other than a social security number may be shown on the
10 itemized statement;

11 H. The name and address of the legal entity that is the employer; and

12 I. All applicable hourly rates in effect during the pay period and the
13 corresponding number of hours worked at each hourly rate by the employee.

14 81. Pursuant to California Labor Code § 226, an employee is deemed to suffer
15 injury if the employer fails to provide a wage statement. Also, an employee is deemed to
16 suffer injury if the employer fails to provide accurate and complete information as required by
17 California Labor Code § 226(a) and the employee cannot “promptly and easily determine”
18 from the wage statement alone one or more of the following:

19 A. The amount of the gross wages or net wages paid to the employee during
20 the pay period or any of the other information required to be provided on the itemized wage
21 statement pursuant to California Labor Code § 226(a);

22 B. Which deductions the employer made from gross wages to determine the
23 net wages paid to the employee during the pay period;

24 C. The name and address of the employer and, if the employer is a farm
25 labor contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the
26 name and address of the legal entity that secured the services of the employer during the pay
27 period;

28 D. The name of the employee and only the last four digits of his or her social

1 security number or an employee identification number other than a social security number; and

2 E. The number of piece-rate units earned and the piece rate.

3 82. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
4 means a reasonable person would be able to readily ascertain the information without
5 reference to other documents or information.

6 83. As alleged herein, at all relevant times during the applicable limitations period,
7 Defendants violated California Labor Code section 226 because it did not properly and
8 accurately itemize each employee’s gross wages earned, net wages earned, the total hours
9 worked, the corresponding number of hours worked at each rate by the employee and other
10 requirements of California Labor Code section 226. Defendants failed to state in the wage
11 statements they issued to Plaintiff and the other Class Members all their hours worked and
12 wages earned, including, but not limited to, regular and overtime wages for work they
13 performed off-the-clock (as described above). Defendants knowingly and intentionally did not
14 issue either as a detachable part of the check, draft, or voucher paying the employee’s wages,
15 or separately if wages are paid by personal check or cash, statements to Plaintiff and the Class
16 Members that state all overtime wages earned, all minimum wages earned, all regular wages
17 earned, all meal period premium wages earned, all rest break premium wages earned, gross
18 wages earned, net wages earned, all hourly rates, and all hours worked at each rate of pay.

19 84. Defendants’ failure to provide Plaintiff and the other Class Members with
20 accurate wage statements was knowing and intentional. Defendants had the ability to provide
21 Plaintiff and the other Class Members with accurate wage statements but intentionally
22 provided wage statements that Defendants knew were not accurate.

23 85. As a result of being provided with inaccurate wage statements by Defendants,
24 Plaintiff and the other Class Members have suffered injury. Their legal rights to receive
25 accurate wage statements were violated and they were misled about the amount of wages they
26 had actually earned and were owed. In addition, the absence of accurate information on their
27 wage statements prevented immediate challenges to Defendants’ unlawful pay practices, has
28 required discovery and mathematical computations to determine the amounts of wages owed,

1 has caused difficulty and expense in attempting to reconstruct time and pay records and/or has
2 led to the submission of inaccurate information about wages to state and federal government
3 agencies. Further, Plaintiff and the other Class Members were not able to ascertain from the
4 wage statements whether Defendants complied with their obligations under California Labor
5 Code section 226(a).

6 86. Pursuant to California Labor Code § 226(e), Plaintiff and the class are entitled
7 to recover the greater of actual damages, or penalties of fifty dollars (\$50) for the initial pay
8 period in which a violation of California Labor Code § 226(a) occurred and one hundred
9 dollars for each violation of California Labor Code § 226(a) in a subsequent pay period, not to
10 exceed an aggregate penalty of four thousand dollars (\$4,000) per class member, and are also
11 entitled to an award of costs and reasonable attorneys' fees.

12 **SIXTH CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

14 **(Lab. Code §§ 204)**

15 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

16 87. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

17 88. California Labor Code Section 204 establishes the fundamental right of all
18 employees in the State of California to be paid wages in a timely fashion for their work.

19 89. At all times relevant during the liability period, Defendants failed to pay
20 Plaintiff and the Class Members the full amount of all owed wages when due as required by
21 California Labor Code Section 204.

22 90. Defendants failed to pay Plaintiff and the Class Members all wages earned each
23 pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the
24 liability period, Defendants maintained a policy or practice of not paying Plaintiff and the Class
25 Members wages for all hours worked, including overtime hours and premium pay for missed
26 rest breaks and meal breaks.

27 91. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members
28 have suffered damages in an amount, subject to proof, to the extent they were not paid all

1 wages each pay period. The precise amount of unpaid wages is not presently known to Plaintiff
2 but can be determined directly from Defendants' records or indirectly based on information
3 from Defendants' records.

4 92. Under this cause of action, Plaintiff prays for penalties on behalf of himself and
5 Class Members due under the statutes alleged along with any allowable interest, penalties,
6 attorney's fees, and costs according to proof at trial.

7 **SEVENTH CAUSE OF ACTION**

8 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

9 **(California Labor Code Sections 201-203)**

10 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

11 93. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

12 94. At all relevant times during the applicable limitations period, Plaintiff and the
13 Class have been employees of Defendants and entitled to the benefits and protections of
14 California Labor Code §§ 201–203, and the Wage Order.

15 95. Labor Code § 201 provides that all earned and unpaid wages of an employee
16 who is discharged are due and payable immediately at the time of discharge.

17 96. Labor Code § 202 provides that all earned and unpaid wages of an employee
18 who quits after providing at least 72-hours notice before quitting are due and payable at the
19 time of quitting and that all earned and unpaid wages of an employee who quits without
20 providing at least 72-hours notice before quitting are due and payable within 72 hours.

21 97. Labor Code § 203 provides that the wages of an employee continue on a daily
22 basis as a penalty for up to 30 days where an employer willfully fails to timely pay earned and
23 unpaid wages to the employee in accordance with Labor Code § 201 or § 202.

24 98. Defendants failed to pay Plaintiff and all of the other Class Members whose
25 employment ended all of the earned but unpaid wages described above by the conclusion of
26 their employment with Defendants, including minimum wages, regular wages, overtime
27 wages, unprovided meal period premium wages, and unprovided rest break premium wages.
28 Additionally, the Defendants failed to issue to Plaintiff and all of the other Class members

1 whose employment ended their final paychecks within the required time periods.

2 99. By failing to pay such earned wages to Plaintiff and the Class Members,
3 Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code
4 § 201 or § 202.

5 100. Plaintiff is informed and believes that Defendants' failures to timely pay
6 Plaintiff and the Class Members all of their earned and unpaid wages (described above) have
7 been willful in that, at all relevant times, Defendants have deliberately maintained policies and
8 practices that violate the requirements of the Labor Code and the Wage Order, even though at
9 all relevant times, they have had the ability to comply with those legal requirements.

10 101. Pursuant to Labor Code § 203, Plaintiff seeks waiting time penalties on behalf
11 of himself and the Class, in amounts subject to proof not to exceed 30 days of waiting time
12 penalties for each Class Member.

13 **EIGHTH CAUSE OF ACTION**

14 **FAILURE TO PROVIDE PAID SICK LEAVE & STATEMENTS OF SICK LEAVE**
15 **AVAILABLE**

16 **(Labor Code § 246 *et seq.*)**

17 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

18 102. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

19 103. Defendants knowingly and intentionally failed in their affirmative obligation
20 provide and pay paid sick leave or provide a statement or separate writing that set forth the
21 amount of paid sick leave available to Plaintiff and Class Members in violation of Labor Code
22 section 246.

23 104. Labor Code section 246(b)(1) requires that employees accrue sick leave at the
24 commencement of employment at a rate of 1 hour for every thirty hours worked. Section
25 246(c) entitles employees to use any accrued sick leave beginning on their 90th day of
26 employment. Labor Code section 246(l) governs how Defendants were required to calculate
27 paid sick leave:

28 [A]n employer shall calculate paid sick leave using any of the following

calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

(2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

105. Labor Code § 246(i) states,

An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.

106. Defendants failed to pay Plaintiff and Class Members paid sick leave at one of the lawful rates set forth in the statute.

107. Defendants failed to provide Plaintiff and all of the other Class Members with an itemized wage statement or separate writing that set forth the amount of paid sick leave available

108. As a result, Defendants violated the Labor Code and are liable to Plaintiff and the Class for unpaid sick leave earnings, in addition to civil penalties, interest, attorneys' fees, and costs.

NINTH CAUSE OF ACTION

CIVIL PENALTIES

(Lab. Code §§ 2698, *et seq.*)

(By Plaintiff and the Aggrieved Employees against all Defendants)

109. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

1 110. The “Aggrieved Employees” are all members of the Class defined above who
2 Defendants employed during the period beginning January 31, 2024 and ending on the date
3 that final judgment is entered in this action.

4 111. Labor Code section 1174, which also pertains to recordkeeping, states:

5 Every person employing labor in this state shall

6 ...

7 (c) Keep a record showing the names and addresses of all employees employed
8 and the ages of all minors.

9 (d) Keep, at a central location in the state or at the plants or establishments at
10 which employees are employed, payroll records showing the hours worked
11 daily by and the wages paid to, and the number of piece-rate units earned by
12 and any applicable piece rate paid to, employees employed at the respective
13 plants or establishments. These records shall be kept in accordance with rules
14 established for this purpose by the commission, but in any case shall be kept on
15 file for not less than three years. An employer shall not prohibit an employee
16 from maintaining a personal record of hours worked, or, if paid on a piece-rate
17 basis, piece-rate units earned.

18 112. Defendants failed to compensate Plaintiff and all of the other Aggrieved
19 Employees for all hours worked at the correct rates of pay, including all minimum wages
20 earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all
21 meal period premium wages earned, all rest break premium wages earned, gross wages earned,
22 net wages earned, and related compensation. As a result, Defendants have failed to accurately
23 maintain all records required by section 1174 and the Wage Order, including but not limited to
24 Plaintiff and all of the other Aggrieved Employees’ total hours worked, total wages paid, and
25 applicable hourly rates during each payroll period.

26 113. During the applicable time period, Defendants violated California Labor Code
27 §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 246.5, 510, 512, 558, 558.1, 1174, 1194, 1197,
28 1198, and 2802.

1 114. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
2 behalf of themselves and other current or former employees, to bring a civil action to recover
3 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

4 115. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Class
5 Members are entitled to recover civil penalties for each of the Defendants' violations of
6 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 558.1, 1174, 1194,
7 1197, 1198, and 2802 during the applicable limitations period in the following amounts:

8 A. For violations of California Labor Code § 204, one hundred dollars
9 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
10 (\$200.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
11 established by California Labor Code § 210).

12 B. For violations of California Labor Code § 226(a), two hundred fifty
13 dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars
14 (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
15 established by California Labor Code § 226.3).

16 C. For violations of California Labor Code §§ 510, 512, and 558.1, fifty
17 dollars (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars
18 (\$100.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
19 established by California Labor Code § 558).

20 D. For violations of California Labor Code § 1174, five hundred dollars
21 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
22 California Labor Code § 1174.5).

23 E. For violations of California Labor Code § 1197, one hundred dollars
24 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
25 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation,
26 per pay period (regardless of whether the initial violations were intentionally committed)
27 (penalty amounts established by California Labor Code § 1197.1).

28 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 233,

1 246, 246.5, 1194, 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee
2 per pay period for each initial violation and two hundred dollars (\$200.00) for each Aggrieved
3 Employee per pay period for each subsequent violation (penalty amounts established by
4 California Labor Code § 2699(f)(2)).

5 116. Plaintiff has complied with the procedures for bringing suit specified in
6 California Labor Code § 2699.3. By letter dated January 31, 2025, Plaintiff filed written notice
7 online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice
8 by certified mail to Defendants of the specific provisions of the California Labor Code alleged
9 to have been violated, including the facts and theories to support the alleged violations. Plaintiff
10 accompanied her LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to
11 take action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff
12 anticipates that the LWDA will provide written notice to Plaintiff informing her that it does not
13 intend to investigate these allegations.

14 117. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
15 Employees are entitled to an award of civil penalties and reasonable attorney’s fees and costs in
16 connection with their claims for civil penalties.

17 **TENTH CAUSE OF ACTION**

18 **UNFAIR COMPETITION**

19 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

20 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

21 118. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

22 119. At all relevant times during the applicable limitations period, Plaintiff and the
23 Class Members have been employees of Defendants and entitled to the benefits and
24 protections of the Business and Professions Code §§ 17200, *et seq.*

25 120. The unlawful conduct of Defendants alleged herein amounts to and constitutes
26 unfair competition within the meaning of California Business & Professions Code §§ 17200,
27 *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have
28 unfairly gained a competitive advantage over other comparable companies doing business in

1 California that comply with their legal obligations to compensate employees for all earned
2 wages.

3 121. As a result of Defendants' unfair competition as alleged herein, Plaintiff and
4 the Class Members have suffered injuries in fact and lost money or property. Plaintiff and the
5 Class Members were deprived of minimum wages, regular wages, overtime wages, missed
6 meal period premium wages, missed rest period premium wages, mobile phone, kitchen tools,
7 and other expenses, and comparable money and property.

8 122. Pursuant to California Business & Professions Code § 17203, Plaintiff and the
9 Class Members are entitled to restitution of all monies rightfully belonging to them that
10 Defendants did not pay them or otherwise retained by means of their unlawful and unfair
11 business practices.

12 123. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in
13 connection with their unfair competition claims pursuant to California Code of Civil
14 Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

15 **V. PRAYER FOR RELIEF**

16 124. WHEREFORE, Plaintiff, on behalf of himself and the Class Members, prays
17 for relief and judgment against Defendants as follows:

18 A. An order that the action be certified as a class action with respect to
19 Plaintiff's claims for violations of California law;

20 B. An order that Plaintiff be appointed class representative;

21 C. An order that counsel for Plaintiff be appointed class counsel;

22 D. Unpaid wages, including minimum, regular, overtime, double-time, split
23 shift, vacation, missed meal period, missed rest period, nonproductive time, rest and recovery
24 time, and reporting time wages;

25 E. Liquidated damages;

26 F. Statutory penalties, including waiting time penalties;

27 G. Civil Penalties;

28 H. Restitution;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- I. Declaratory relief;
- J. Actual damages;
- K. Pre-judgment interest;
- L. Costs of suit;
- M. Reasonable attorneys’ fees; and
- N. Such other relief as the Court deems just and proper.

VI. DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself and all other Class Members, hereby demands a jury trial on all issues so triable.

Dated: November 25, 2025

MM LAW, APC

By Maralle Messrelia
Maralle Messrelia, Esq.
Attorneys for Plaintiff, ULISES
TABARES, and all others similarly
situated