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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Placer  
**01/14/2025 at 07:56:05 PM**  
By: Cindy P Baldock  
Deputy Clerk

Attorneys for Plaintiff,  
WILLIAM O'BRIEN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF PLACER**

WILLIAM O'BRIEN, an individual,  
  
Plaintiff,

vs.

TRC ENGINEERS, INC., a California  
corporation; WILLIAM CLAYTON, an  
individual; and DOES 1 through 100,  
inclusive,  
  
Defendants.

**CASE NO.: S-CV-0054410**

**COMPLAINT FOR:**

- 1. FAILURE TO PAY PREMIUM  
OVERTIME/DOUBLE TIME WAGES  
(Cal. Labor Code §§ 510, 511, 1194, 1198;  
IWC Wage Order No. 4);**
- 2. FAILURE TO PROVIDE MEAL  
PERIODS (Cal. Labor Code § 226.7; IWC  
Wage Order No. 4);**
- 3. FAILURE TO PROVIDE REST  
PERIODS (Cal. Labor Code § 226.7; IWC  
Wage Order No. 4);**
- 4. WAITING TIME PENALTIES (Cal. Labor  
Code §226; IWC Wage Order No. 4);**
- 5. FAILURE TO PAY WAGES DUE UPON  
TERMINATION (Cal. Labor Code §§201-  
203);**
- 6. FAILURE TO REIMBURSE BUSINESS  
EXPENSES (Cal. Labor Code §2802);**
- 7. FAILURE TO ALLOW INSPECTION OF  
EMPLOYMENT RECORDS (Cal. Labor  
Code §1198.5);**
- 8. UNFAIR COMPETITION (Cal. Bus. & Prof.  
Code §§17200 et seq.; and**
- 9. RETALIATION IN VIOLATION OF CAL.  
LABOR CODE §98.6.**

**DEMAND FOR A JURY TRIAL**

1 William O'Brien ("Plaintiff") alleges the following:

2  
3 **PARTIES**

4 1. Plaintiff was, at all times relevant to the matters alleged herein, over age 18 and  
5 a resident of Eureka, California.

6 2. Plaintiff is informed and believes, and based on that information and belief,  
7 alleges, Defendant TRC Engineers, Inc. ("TRC") is, and at all times mentioned herein was, a  
8 California corporation, with a principal place of business at 5 Executive Circle, Suite 200,  
9 Irvine, CA 92514. Defendant has been authorized to do business and has been doing business  
10 in the County of Placer.

11 3. Plaintiff alleges on information and belief that Defendant William Clayton  
12 ("Clayton") (collectively with TRC "Defendants") is an individual, who at all times relevant  
13 herein, was a resident of Placer County, California. Clayton is the former Senior Supervisor at  
14 TRC.

15 4. Starting in or about October 2021, and continuing until October 2, 2024,  
16 Defendant TRC employed Plaintiff as a Senior Field Biologist. Plaintiff gathered field data,  
17 monitored birds' nests, trees and active work crews.

18 5. Plaintiff is ignorant of the true names and capacities of the defendants sued  
19 herein as DOES 1 through 100, inclusive, and therefore Plaintiff sues these defendants by such  
20 fictitious names and capacities. Plaintiff will amend his Complaint to show their true names  
21 and capacities when they have been ascertained. Plaintiff is informed and believes and thereon  
22 alleges that at all times relevant, each of these fictitiously named DOE Defendants was an  
23 individual person who owned, controlled, or managed the business for which Plaintiff worked  
24 and/or who directly or indirectly exercised operational control over the wages, hours, and  
25 working conditions of Plaintiff. These DOE Defendants held ownership, officer, director and/or  
26 executive positions with the remaining Defendants, and acted on behalf of the remaining  
27 Defendants, which included decision-making responsibility for, and establishment of, illegal  
28 payroll practices and policies for Defendants which have damaged Plaintiff and others similarly  
situated. Therefore, DOES 1 through 100, in addition to the remaining Defendants, are

1 "employers" as a matter of law and personally liable on the causes of action alleged herein  
2 pursuant to Labor Code §558, as well as other California wage and hour laws and regulations  
3 as alleged herein.

4 6. Plaintiff is informed and believes and thereon alleges that at least some of the  
5 Defendant DOES 1 through 100 are, and at all times relevant hereto were, persons,  
6 corporations or other business entities organized and existing under and by virtue of the laws  
7 of the State of California, and are/were qualified to transact and conduct business in the State  
8 of California, and did transact and conduct business in the State of California, and are thus  
9 subject to the jurisdiction of the State of California. Specifically, said DOES 1 through 100  
10 maintain offices, operate businesses, employ persons, and conduct business in, and illegally  
11 pay employees by illegal payroll practices and policies in the County of Placer.

12 7. Plaintiff is informed and believes and thereon alleges, that at all times relevant  
13 herein, the named defendants and at least some of DOES 1 through 100 were the agents,  
14 employees, and/or servants, masters, or employers of the remaining DOES 1 through 100, and  
15 in doing the things herein alleged, were acting within the course and scope of such agency or  
16 employment, and with the approval and ratification of each of the other defendants.

17 8. Plaintiff is informed and believes and thereon alleges that Defendants, and each  
18 of them, directly employed or exercised control over his wages, hours, or working conditions.

19 9. Plaintiff is further informed and believes, and thereon alleges, that each of the  
20 fictitiously named Defendants aided and assisted the named Defendants in committing the  
21 wrongful acts alleged herein, and that Plaintiff's damages were proximately caused by each  
22 defendant.

23 10. At all times relevant herein, each of the named defendants was the agent of the  
24 other named defendants and in doing the things alleged herein, was acting within the course  
25 and scope of said agency.

## 26 JURISDICTION AND VENUE

27 11. This Court has jurisdiction over this Complaint under Code of Civil Procedure  
28 §410.10 and *Business & Professions Code* §§ 17200 *et seq.*

1           12.     Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and  
2 395.5, because the claims made, and the *Labor Code* violations as against the persons identified  
3 herein, occurred in the County of Placer and because Defendant TRC owned and operated their  
4 business in the County of Placer.

5                   **DEFENDANTS DID NOT PROPERLY COMPENSATE PLAINTIFF**

6           13.     While employed by Defendants, Plaintiff was paid \$46.35 per hour. Plaintiff  
7 worked 10 or more hours per day, 5 days per week. He worked at least 50 hours per week.

8           14.     The employment by Defendants of Plaintiff is governed by Industrial Welfare  
9 Commission Wage Order 4, which covers those persons employed in the professional,  
10 technical, clerical, mechanical and similar occupations.

11           15.     Under California law, non-exempt employees as defined by Wage Order No. 4,  
12 are entitled to premium wages for overtime/double time worked.

13           16.     At all times relevant herein, Plaintiff routinely engaged in off-the-clock work  
14 such that he was due pay at overtime rates. Monies for unpaid overtime/double time remain due  
15 and owing.

16           17.     As a result of Defendants' failure to pay Plaintiff at required overtime/double  
17 time rates, the wage statements issued to him did not comply with *Labor Code* §226 and  
18 California Industrial Welfare Commission ("IWC") Wage Order No. 4 in that they did not  
19 accurately reflect all wages earned and due and owing.

20           18.     Defendants failed to pay Plaintiff overtime/double time due to the failure to  
21 afford compliant meal/rest breaks. Monies for these underpaid amounts remain due and owing.

22           19.     As a result of Defendants' failure to pay Plaintiff overtime/double time, the  
23 wage statements issued to Plaintiff did not comply with *Labor Code* §226 in that they did not  
24 accurately reflect all wages earned and due and owing.

25           20.     Defendants failed to afford Plaintiff compliant meal breaks.

26           21.     Defendants failed to afford Plaintiff any rest breaks.

27           22.     Defendants failed to reimburse Plaintiff for his necessary business expenses.

28           23.     Defendants failed to provide Plaintiff with his requested employment records.

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**Retaliation**

24. Defendants retaliated against Plaintiff in violation of Cal. Lab. Code §98.6.

25. Pursuant to the California Labor Code, Plaintiff intends to file a notice with Labor and Workforce Development Agency (LWDA) and pursue claims against Defendants under the Private Attorney General Act (PAGA). As such, Plaintiff further reserves the right to amend this Complaint once he completes and complies with the provisions under the law.

**FIRST CAUSE OF ACTION**

**FAILURE TO PAY OVERTIME/DOUBLE TIME WAGES**

**(Labor Code §§510, 558, 1194, 1194.3, 1198 and Wage Order No. 4 By Plaintiff Against all Defendants and Does 1-100)**

26. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

27. During Plaintiff's entire employment with Defendants, pursuant to Cal. Lab. Code §§200, 510, 1194, and 1198, and IWC Wage Order No. 4, Defendants were required to compensate Plaintiff with premium pay for all overtime work performed, for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8) hours on the seventh (7th) consecutive day of any work week. Further, Defendants were required to compensate Plaintiff with premium pay for all double-time performed, for hours worked in excess of twelve (12) hours per workday and for work in excess of eight hours on any seventh day of a workweek.

28. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee who had not been paid overtime compensation could recover the unpaid balance of the full amount of overtime wages due, including interest thereon, together with reasonable attorneys' fees and costs of suit.

29. California Labor Code section 510, subdivision (a), states in relevant part:

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

1 in excess of eight hours on any seventh day of a workweek shall be compensated  
2 at the rate of no less than twice the regular rate of pay of an employee.

3 30. California Labor Code section 1198 provides,

4 The maximum hours of work and the standard conditions of labor fixed by the  
5 commission shall be the maximum hours of work and the standard conditions  
6 of labor for employees. The employment of any employee for longer hours than  
7 those fixed by the order or under conditions of labor prohibited by the order is  
8 unlawful.

9 31. Pursuant to IWC Wage Order No. 4-2001, § 3, "Employment beyond eight (8)  
10 hours in any workday is permissible provided the employee is compensated for such overtime  
11 at not less than: (a) One and one-half (1 1/2) times the employee's regular rate of pay for all  
12 hours worked in excess of eight (8) hours up to and including twelve (12) hours in any  
13 workday..."

14 32. California Labor Code section 558 provides in pertinent part:

15 (a) Any employer or other person acting on behalf of an employer who  
16 violates, or causes to be violated, a section of this chapter or any  
17 provision regulating hours and days of work in any order of the  
18 Industrial Welfare Commission shall be subject to a civil penalty as  
follows:

19 (1) For any initial violation, fifty dollars (\$50) for each underpaid  
20 employee for each pay period for which the employee was underpaid in  
addition to an amount sufficient to recover underpaid wages.

21 (2) For each subsequent violation, one hundred dollars (\$100) for each  
22 underpaid employee for each pay period for which the employee was  
23 underpaid in addition to an amount sufficient to recover underpaid  
wages.

24 (3) Wages recovered pursuant to this section shall be paid to the affected  
25 employee...

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

28 33. Pursuant to Cal. Labor Code §558.1:

1 (a) Any employer or other person acting on behalf of an employer, who  
2 violates, or causes to be violated, any provision regulating...hours and days of  
3 work in any order of the Industrial Welfare Commission, or violates, or causes  
4 to be violated Sections 203, 226, 226.7...may be held liable as the employer for  
5 such violation.

6 (b) For purposes of this section, the term "other person acting on behalf of  
7 an employer" is limited to a natural person who is an owner, director, officer, or  
8 managing agent of the employer, and the term "managing agent" has the same  
9 meaning as in subdivision (b) of Section 3294 of the Civil Code.

10 (c) Nothing in this section shall be construed to limit the definition of  
11 employer under existing law.

12 34. Mr. Clayton is a person acting on behalf of TRC and is therefore liable to  
13 Plaintiff as an employer. Mr. Clayton caused the laws relating to overtime/double time to be  
14 violated. Plaintiff complained to Mr. Clayton concerning the wage and hour violations, but  
15 nothing was done to rectify the situation.

16 35. Plaintiff worked 10 or more hours per day, 5 days per week. Due to Defendants'  
17 failure to afford compliant meal/rest breaks, Plaintiff was not properly paid overtime/double  
18 time.

19 36. Further, Defendants expected Plaintiff to engage in off the clock work every  
20 day. Plaintiff was required to upload reports from his cell phone to TRC's database every day  
21 for about 2- 2.5 hours after clocking out. Plaintiff was not paid for his off the clock work.

22 37. Plaintiff worked approximately 20 hours per week of overtime/double time.  
23 Plaintiff was not paid overtime/double time that was due to him.

24 38. The foregoing overtime/double time compensation is owed and unpaid. As a  
25 direct and proximate result of Defendants' failure and refusal to pay overtime/double time,  
26 Plaintiff suffered damages in the amount of at least \$250,000.00, according to be proof at trial.

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1           39.     *Labor Code* § 558(a) mandates a civil penalty for failure to pay overtime/double  
2 time wages against employers and those individuals acting in their behalf. Plaintiff requests  
3 that this Court assess said penalty against Defendants in an amount to be proven at trial.

4           40.     Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal  
5 counsel in order to enforce Plaintiff's rights to overtime/double time pay, is entitled to recover  
6 his attorneys' fees, costs and interest.

7                               **SECOND CAUSE OF ACTION**

8                               **FOR FAILURE TO PAY FOR MEAL PERIODS NOT PROVIDED**

9           **(Labor Code §§ 226.7, 512, IWC Wage Order No. 4 By Plaintiff Against all Defendants**  
10                               **and Does 1 through 100)**

11           41.     Plaintiff realleges and incorporates by reference all of the allegations set forth in  
12 this Complaint.

13           42.     California Labor Code §226.7(a) prohibits an employer from requiring an  
14 employee to work during any meal period mandated by an applicable Industrial Wage Order.  
15 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an  
16 employee to work during a meal or rest break or recovery period mandated pursuant to an  
17 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare  
18 Commission..."

19           43.     California Labor Code §1198 makes unlawful the employment of an employee  
20 under conditions the IWC prohibits.

21           44.     IWC Wage Order No. 4 provides, in relevant part: "No employer shall employ  
22 any person for a work period of more than five (5) hours without a meal period of not less than  
23 30-minutes, except that when a work period of not more than six (6) hours will complete the  
24 day's work the meal period may be waived by mutual consent of the employer and the  
25 employee."

26           45.     IWC Wage Order No. 4 further provides, in relevant part: "Unless the employee  
27 is relieved of all duty during a 30-minute meal period, the meal period shall be considered an  
28 'on duty' meal period and counted as time worked."

1           46.     Section 512(a) of the California Labor Code provides, in relevant part, that:  
2                 An employer may not employ an employee for a work period of more than five  
3                 hours per day without providing the employee with a meal period of not less  
4                 than 30-minutes, except that if the total work period per day of the employee is  
5                 no more than six hours, the meal period may be waived by mutual consent of  
6                 both the employer and employee. An employer may not employ an employee for  
7                 a work period of more than 10 hours per day without providing the employee  
8                 with a second meal period of not less than 30-minutes, except that if the total  
9                 hours worked is no more than 12 hours, the second meal period may be waived  
10                by mutual consent of the employer and the employee only if the first meal  
11                period was not waived.

12           47.     The Labor Code and Wage Order provisions cited above require California  
13                employers to provide employees with off-duty 30-minute meal periods on or before the fifth  
14                hour of their shifts. To satisfy this obligation, California employers must: (1) make employees  
15                aware of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and  
16                (2) ensure that employees are actually free of job duties for thirty minutes per day on or before  
17                the fifth hour of their shifts.

18           48.     Defendants violated Labor Code § 512 and IWC Wage Order No. 4 by failing to  
19                provide Plaintiff the requisite 30-minute meal periods, required by law. Plaintiff's meal breaks  
20                were rarely afforded. Although Plaintiff was required to record that he took meal breaks, he  
21                was typically unable to take meal breaks due to the volume of work. Further, on days when  
22                Plaintiff worked in excess of 10 hours, he was never afforded second meal breaks.

23           49.     Pursuant to Cal. Labor Code §558.1:

24                (c)     Any employer or other person acting on behalf of an employer, who  
25                violates, or causes to be violated, any provision regulating...hours and days of  
26                work in any order of the Industrial Welfare Commission, or violates, or causes  
27                to be violated Sections 203, 226, 226.7...may be held liable as the employer for  
28                such violation.

1 (d) For purposes of this section, the term “other person acting on behalf of  
2 an employer” is limited to a natural person who is an owner, director, officer, or  
3 managing agent of the employer, and the term “managing agent” has the same  
4 meaning as in subdivision (b) of Section 3294 of the Civil Code.

5 (c) Nothing in this section shall be construed to limit the definition of  
6 employer under existing law.

7 50. Mr. Clayton is a person acting on behalf of TRC and is therefore liable to  
8 Plaintiff as an employer. Mr. Clayton caused the laws relating to meal breaks to be violated.  
9 Plaintiff complained to Mr. Clayton concerning the wage and hour violations, but nothing was  
10 done to rectify the situation.

11 51. Defendants further violated IWC Wage Order No. 4 and Labor Code  
12 § 226.7 by failing to pay one hour of compensation to Plaintiff at his individual and regular rate  
13 of pay for each work day that the meal period was not provided, in the amount of at least  
14 \$128,217.60, according to proof. This amount remains owed and unpaid.

15 52. Cal. Labor Code § 218 authorizes Plaintiff to bring a private right of action to  
16 recover wages due based on the deprivation of timely meal periods under Cal. Labor Code  
17 § 226.7(b).

18 53. As a direct and proximate result of Defendants’ unlawful conduct as alleged  
19 herein, Plaintiff has sustained economic damages, including but not limited to unpaid wages  
20 and lost interest, in an amount to be established at trial, and is entitled to recover economic and  
21 statutory damages, attorneys' fees and penalties and other appropriate relief due to Defendants’  
22 violations of the California Labor Code and IWC Wage Order No. 4.

23 **THIRD CAUSE OF ACTION**

24 **FAILURE TO PROVIDE REST BREAKS**

25 **(Labor Code §226.7 and IWC Wage Order No. 4– By Plaintiff Against all**  
26 **Defendants Does 1 through 100)**

27 54. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
28 this Complaint.

1           55. Labor Code § 226.7 and IWC Wage Order No. 4 provide that employers shall  
2 authorize and permit all employees to take rest periods at the rate of ten minutes net rest time  
3 per four hours of work, or major fraction thereof.

4           56. Labor Code § 226.7 and IWC Wage Order No. 4 provide that if an employer  
5 fails to provide an employee with rest periods in accordance with those provisions, the  
6 employer shall pay the employee one hour of pay at the employee's regular rate of  
7 compensation for each workday that the rest periods were not so provided.

8           57. Pursuant to Cal. Labor Code §558.1:

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

14           (f) For purposes of this section, the term “other person acting on behalf of  
15 an employer” is limited to a natural person who is an owner, director, officer, or  
16 managing agent of the employer, and the term “managing agent” has the same  
17 meaning as in subdivision (b) of Section 3294 of the Civil Code.

18           (c) Nothing in this section shall be construed to limit the definition of  
19 employer under existing law.

20           58. Mr. Clayton is a person acting on behalf of TRC and is therefore liable to  
21 Plaintiff as an employer. Mr. Clayton caused the laws relating to rest breaks to be violated.  
22 Plaintiff complained to Mr. Clayton concerning the wage and hour violations, but nothing was  
23 done to rectify the situation.

24           59. Defendants have intentionally and improperly denied any rest periods to  
25 Plaintiff in violation of Labor Code § 226.7 and IWC Wage Order No. 4.

26           60. At all times relevant hereto, Plaintiff has worked 10 or more hours daily.

27           61. At all times relevant hereto, Defendants failed to provide rest periods as required  
28 by Labor Code § 226.7 and IWC Wage Order No. 4.

1           62. By virtue of Defendants' unlawful failure to provide rest periods to the Plaintiff,  
2 Plaintiff has suffered, and will continue to suffer, damages the amount of at least \$250,000.00,  
3 according to proof at trial.

4                                   **FOURTH CAUSE OF ACTION**

5                                   **WAITING TIME PENALTIES**

6           **(Labor Code §226 By Plaintiff Against all Defendants and Does 1 through 100)**

7           63. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
8 this Complaint.

9           64. At all times relevant hereto, Defendants failed to issue payrolls statements to  
10 Plaintiff which complied with *Labor Code* § 226 in that the statements issued to Plaintiff did  
11 not properly and accurately itemize the number of hours Plaintiff worked at the effective  
12 regular rates of pay and the effective overtime/double time rates of pay, AND for meal/rest  
13 breaks not afforded.

14           65. Defendants knowingly and intentionally failed to comply with *Labor Code*  
15 §226(a), causing damage to Plaintiff. These damages, including but not limited to, costs  
16 expended calculating the actual hours worked and the amount of employment taxes which were  
17 not properly paid to state and federal tax authorities, are difficult to estimate. Therefore,  
18 Plaintiff elects to recover liquidated damages of \$50.00 for the initial pay period in which the  
19 violations occurred, and \$100.00 for each violation in subsequent pay periods, pursuant to  
20 *Labor Code* § 226(e), in the amount of \$4,000.00 plus reasonable attorneys' fees and costs.

21           66. Plaintiff requests a permanent injunction to stop this unlawful conduct, plus  
22 attorneys' fees and costs in obtaining the injunction, pursuant to *Labor Code* § 226(g).

23                                   **FIFTH CAUSE OF ACTION**

24                                   **FOR FAILURE TO PAY WAGES UPON TERMINATION AND/OR RESIGNATION**

25           **(Labor Code §§201-203 By Plaintiff Against all Defendants and Does 1 through 100)**

26           67. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
27 this Complaint.  
28

1           68. Labor Code § 201(a) provides that a discharged employee's unpaid wages are  
2 due and payable immediately. Labor Code § 202(a) provides that when an employee resigns  
3 from employment, unpaid wages are due and payable within 72 hours of resignation.

4           69. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as  
5 mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until  
6 paid, not to exceed thirty days.

7           70. Plaintiff was discharged from Defendants' employ and Defendants willfully  
8 failed to pay Plaintiff wages due him.

9           71. Defendants wrongfully terminated Plaintiff on October 2, 2024, yet failed to pay  
10 him wages due to him.

11           72. Under Labor Code § 203(a), Plaintiff is entitled to one day's wages for each day  
12 he was not timely paid, not to exceed 30 days' wages.

13                                   **SIXTH CAUSE OF ACTION**

14                                   **FAILURE TO REIMBURSE BUSINESS EXPENSES**

15           **(Cal. Labor Code §2802 By Plaintiff Against all Defendants and Does 1 through 100)**

16           73. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
17 this Complaint.

18           74. Labor Code §2802 requires employers to indemnify employees for all necessary  
19 expenditures incurred by employees in the discharge of his duties.

20           75. At all times relevant herein, Defendants were aware that Plaintiff was using his  
21 cell phone and purchased equipment for business, but failed to indemnify Plaintiff for all his  
22 business-related expenses, including wear and tear expenses, in accordance with Labor Code  
23 §2802.

24           76. As a result of Defendants' conduct, Plaintiff suffered damages in an amount,  
25 subject to proof, to the extent he was not reimbursed for all of his business-related expenses  
26 incurred in the discharge of his duties.

27           77. Pursuant to Labor Code §2802, Plaintiff is entitled to recover the full amount of  
28 her unreimbursed business expenses, reasonable attorneys' fees and costs of suit.

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**(Cal. Labor Code §1198.5 By Plaintiff Against Defendant TRC and Does 1 through 100)**

78. Plaintiff realleges and incorporates by reference all of the allegations set forth in

79. California Labor Code Section 1198.5 provides:

(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.

(b) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request to inspect the records. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records,... later than 30 calendar days from the date the employer receives the request...

(k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section... the current or former employee may recover a penalty of seven hundred fifty dollars (\$750) from the employer.

(1) A current or former employee may also bring an action for injunctive relief to obtain compliance with this section, and may recover costs and reasonable attorney's fees in such an action.

1           80.     Additionally, pursuant to Wage Order No. 4, at section 7 re: Records, employers  
2 are required to keep accurate payroll records on each employee, and such records must be made  
3 readily available for inspection by the employee upon reasonable request. The employer must  
4 also maintain accurate production records.

5           81.     On or about January 14, 2025, Plaintiff's counsel issued a written request to  
6 TRC for copies of his personnel records.

7           82.     Under California Labor Code Sections 226, 432 and 1198.5, such records were  
8 to include all records relating to Plaintiff's hours worked, wage statements and compensation.  
9 Plaintiff's counsel and TRC did not enter into an agreement to enlarge the time for TRC's  
10 compliance, and TRC has failed and refused to permit Plaintiff copies of his records.

11           83.     As a direct result and consequence of Defendants' failure and refusal to permit  
12 Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form of an order or  
13 decree mandating TRC's compliance. Plaintiff has suffered and will suffer harm as a result of  
14 TRC's ongoing refusal to comply. Plaintiff also seeks recovery of the statutory penalty of \$750  
15 based upon TRC's violation of §1198.5.

16                           **EIGHTH CAUSE OF ACTION**

17                           **FOR UNFAIR COMPETITION**

18           **(Business & Professions Code §§ 17200 et seq. By Plaintiff Against Defendant TRC and**  
19                           **Does 1 through 100)**

20           84.     Plaintiff realleges and incorporates by reference all of the allegations set forth in  
21 this Complaint.

22           85.     *Business & Professions Code* §§ 17200 et seq. prohibit acts of unfair  
23 competition, which mean and include "unlawful and unfair business practices."

24           86.     TRC's conduct as alleged herein has been and continues to be unfair, unlawful,  
25 and deleterious to Plaintiff. Plaintiff hereby seeks to enforce important rights affecting the  
26 public interest within the meaning of *Code of Civil Procedure* § 1021.5. Plaintiff is a "person"  
27 within the meaning of *Business and Professions Code* § 17204 and therefore has standing to  
28 bring this suit for restitution.

1           87.     The prompt payment of overtime/double time, affording of meal/rest breaks, and  
2 reimbursing business expenses, are fundamental public policies of California. It also is the  
3 public policy of California to enforce minimum labor standards to ensure that employees are  
4 not required to or permitted to work under substandard and unlawful conditions and to protect  
5 those employers who comply with the law from losing competitive advantage to other  
6 employers who fail to comply with labor standards and requirements.

7  
8           88.     Through the conduct alleged herein, TRC acted contrary to these public policies  
9 and have thus engaged in unlawful and/or unfair business practices in violation of *Business &*  
10 *Professions Code* §§ 17200 *et seq.*, depriving Plaintiff of the rights, benefits and privileges  
11 guaranteed to employees under California law.

12           89.     TRC regularly and routinely violated the following statutes and regulations with  
13 respect to Plaintiff:

- 14                   (a)     *Labor Code* §§ 510, 511, 558, 1194 and 1198 and IWC Wage Order No.  
15                             4 as amended (failure to pay overtime/double time);  
16                   (b)     *Labor Code* §226 (failure to afford meal breaks);  
17                   (c)     *Labor Code* §226 (failure to afford rest breaks);  
18                   (d)     *Labor Code* § 226 (failure to provide accurate wage statements to  
19                             employees at the time of payment of wages);  
20                   (e)     *Labor Code* §§ 201-203 (failure to pay wages on termination);  
21                   (h)     *Labor Code* § 2802 (failure to reimburse business expenses); and  
22                   (k)     *Labor Code* §1198.5 (failure to allow inspection of employment records).

23           90.     By engaging in these business practices, which are unfair business practices  
24 within the meaning of *Business & Professions Code* §§17200 *et seq.*, TRC harmed Plaintiff and  
25 gained an unfair competitive edge. Under the *Business & Professions Code* § 17203, Plaintiff  
26 is entitled to obtain restitution of these funds.

27 //

28 //

1 **NINTH CAUSE OF ACTION**

2 **(Retaliation in Violation of Cal. Lab. §98.6– By Plaintiff Against Defendant TRC**  
3 **Does 1 through 100)**

4 91. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
5 this Complaint.

6 92. This cause of action is based upon California Labor Code 98.6 which provides  
7 that no person shall discharge an employee or in any manner discriminate against any employee  
8 or applicant for employment for a bona fide complaint or claim as covered by the California  
9 Labor Code, including Labor Code § 96(a) through (k) and claims for non-payment of wages.

10 93. This cause of action is based upon the fundamental public policy of the State of  
11 California involving the prompt payment of wages due to employees and the wage and hour  
12 laws regarding providing employees with their statutory right to meal and rest periods,  
13 overtime/double time compensation and to individuals that are retaliated against or discharged  
14 for reporting meal, rest period and overtime/double time violations to the employer. Labor  
15 Code §§ 203, 226.7, 512, 588, 1194 and 1198.

16 94. As alleged above, Plaintiff is informed, believes and based thereon alleges that  
17 Defendant TRC retaliated against Plaintiff in violation of California Labor Code §98.6 (a)  
18 because he exercised his right to report wage and hour violations under the California Labor  
19 Code.

20 95. Defendant TRC subjected Plaintiff to an adverse employment action by  
21 terminating his employment on or about October 2, 2024, due to his complaints concerning  
22 wage and hour violations.

23 96. As a direct, foreseeable, and proximate result of the conduct of TRC, Plaintiff  
24 has suffered, and continues to suffer loss of earnings, plus expenses incurred in obtaining  
25 substitute employment and loss of accrued sick time, loss of job security, and all to his damage  
26 in a sum to be ascertained according to proof.

27 //

28 //

97. As a further direct and proximate result of said TRC's unlawful retaliation, the Plaintiff has suffered severe emotional distress, in a sum within the jurisdiction of this Court, to be ascertained according to proof.

98. Plaintiff is informed, believes, and based thereon, alleges that the outrageous conduct of Defendant TRC described above, in this cause of action, was done with oppression and malice by Defendant TRC and was ratified by those other individuals who were managing agents of Defendant TRC. These unlawful acts were further ratified by the Defendant and done with a conscious disregard for Plaintiff's rights and with the intent, design and purpose of injuring Plaintiff. By reason thereof, Plaintiff is entitled to punitive or exemplary damages against said Defendant TRC for their acts as described in this cause of action in a sum to be determined at the time of trial.

99. Pursuant to California Labor Code §98.6 (b)(3), TRC is liable for civil penalties up to \$10,000 per violation due to its violation of California Labor Code §98.6.

100. As a result of the retaliatory acts of Defendant TRC, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of suit as specifically provided in California Code of Civil Procedure § 1021.5.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor and against Defendants, and each of them, as follows:

1. For compensatory damages in the amount of unpaid overtime/double time due to Plaintiff, in the amount of at least \$250,000.00, according to proof;

2. For compensatory damages in the amount of unpaid minimum wages due to Plaintiff, in the amount of at least \$250,000.00, according to proof;

3. For one (1) hour of pay at the regular rate of compensation for Plaintiff for each workday that a meal and/or rest period was not provided;

4. For payment of unpaid wages in accordance with California labor and employment law;

- 1           5.       For an award of consequential damages in Plaintiff's favor and against  
2 Defendants, in an amount to be proven at trial;
- 3           6.       For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;
- 4           7.       For compensatory damages in the amount of Plaintiff's out of pocket expenses  
5 and/or reimbursement of monies incurred while performing Defendants' business-related  
6 duties, plus interest, costs and attorneys' fees pursuant to *Cal. Code Civ. Proc.* §2802(c);
- 7           8.       Pursuant to Labor Code § 203, for an additional sum according to proof equal of  
8 up to 30 days wages for each violation, as a premium for unpaid wages to Plaintiff;
- 9           9.       For payment to Plaintiff of waiting time penalties pursuant to *Cal. Lab. Code*  
10 §203, in an amount equal to his respective daily rates of pay at the time of termination or  
11 layoff, multiplied by the total amount of days elapsed between the date of the involuntary  
12 termination, and/or 72 hours after notice of the voluntary termination, up to a maximum of 30  
13 days' pay, according to proof;
- 14          10.       For specific relief enforcing waiting time penalties of 30 days of per diem wages  
15 pursuant to *Cal. Bus. & Prof. Code* §17200, according to proof;
- 16          11.       For prejudgment interest accrued on all due and unpaid overtime/double time  
17 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and  
18 1194(a), according to proof;
- 19          12.       For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, according to  
20 proof;
- 21          13.       For statutory penalties pursuant to *Cal. Lab. Code* §98.6(b)(3) in an amount of at  
22 least \$10,000 per each violation;
- 23          14.       For reasonable costs, including attorneys' fees, in an amount according to proof  
24 pursuant to, *inter alia*, *Cal. Labor Code* §§1194, 218.5, 218.6, 1198.5(1), 2802 and/or *Cal.*  
25 *Code of Civ. Proc.* §1021.5;
- 26          15.       For an award of restitution of wages to Plaintiff in an amount equal to the  
27 amount of wages owed and unpaid, according to proof;
- 28

16. For injunctive relief ordering the continuing unfair business acts and practices to cease, as the Court deems just and proper;

17. For other injunctive relief ordering Defendants to notify Plaintiff that he has not been paid the proper amounts in accordance with California law;

18. For injunctive relief requiring Defendants to comply with Labor Code 1198.5(b)(1);

19. For punitive and exemplary damages in a sum to be determined at trial; and

20. For such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff William O'Brien hereby respectfully requests a trial by jury for all claims and issues raised in his Complaint that may be entitled to a jury trial.

LIPELES LAW GROUP, APC

Date: January 14, 2025

By:

Thomas H. Schelly  
Attorneys for Plaintiff  
William O'Brien