

JUSTICE FOR WORKERS, P.C.
 William C. Sung, SB# 280792
 E-Mail: william@justiceforworkers.com
 Tiffany L. Luu, SB# 335127
 E-Mail: tluu@justiceforworkers.com
 Joseph C. Ramli, SB#339491
 E-Mail: jramli@justiceforworkers.com
 9575 Bolsa Avenue
 Westminster, CA 92683
 Tel: 323-922-2000
 Fax: 323-922-2000

Attorneys for Plaintiffs JEROME WARTHEN, JR.
 and CLAUDIA ECHEVERRIA

FILED
 Superior Court of California
 County of Los Angeles

03/21/2025

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

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

JEROME WARTHEN, JR. and CLAUDIA
 ECHEVERRIA, individuals and on behalf of
 all others similarly situated;

Plaintiffs,

vs.

HOME EXPRESS DELIVERY SERVICE,
 LLC, a California limited liability company;
 and DOES 1 through 50,

Defendants.

Case No.: 25STCV00768

**FIRST AMENDED CLASS AND
 REPRESENTATIVE ACTION
 COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS**
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);
- (2) **OVERTIME WAGE VIOLATIONS**
(LABOR CODE §§ 204, 510, 1194,
1198);
- (3) **MEAL PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 512, 558);
- (4) **REST PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 516, 558);
- (5) **WAGE STATEMENT PENALTIES**
(LABOR CODE § 226);
- (6) **WAITING TIME PENALTIES**
(LABOR CODE §§ 201-203);
- (7) **PIECE-RATE VIOLATIONS**
(LABOR CODE § 226.2);
- (8) **UNFAIR COMPETITION (BUS &**
PROF CODE §§ 17200, et seq.); and
- (9) **CIVIL PENALTIES UNDER THE**
CALIFORNIA PRIVATE

**ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698, *et seq.*)**

DEMAND FOR JURY TRIAL

Plaintiffs JEROME WARTHEN, JR. and CLAUDIA ECHEVERRIA (“Plaintiffs”), on behalf of themselves and all others similarly situated, hereby bring this First Amended Class and Representative Action Complaint (“Complaint”) against Defendants HOME EXPRESS DELIVERY SERVICE, LLC, a California limited liability company, and DOES 1 to 50 (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring this Complaint for recovery of unpaid wages and penalties under California Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.2, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698, *et seq.*, and applicable Industrial Welfare Commission (“IWC”) Wage Orders (“Wage Orders”), in addition to seeking injunctive relief, declaratory relief, and restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the Labor Code because the amount in controversy exceeds \$25,000.

2. Venue is proper in this judicial district because Defendants maintain offices, have agents, and/or transact business in the State of California, including Los Angeles County, and some of the acts and omissions complained of herein occurred in Los Angeles County. Furthermore, Plaintiffs were employed by Defendants within Los Angeles County.

PARTIES

3. Plaintiffs are, and at all times relevant herein were, individuals over the age of eighteen (18) and are California residents. Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiffs were employed by Defendants as on-exempt employees. Plaintiffs were, and are, victims of Defendants’ policies, practices, and/or customs complained of herein and have been deprived of the rights guaranteed by Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197,

1 1198, 2698, *et seq.*, and Wage Orders.

2 4. Plaintiffs are informed and believe, and based thereon allege, that during the
3 applicable statute of limitations for each cause of action pled herein and continuing to the present,
4 Defendants engaged in, and continue to engage in, business, and employed Plaintiffs and other,
5 similarly-situated non-exempt employees within Los Angeles County, and the State of California
6 and, therefore, were (and are) doing business in Los Angeles County and the State of California.

7 5. Plaintiffs do not know the true names or capacities, whether individual, partner, or
8 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
9 defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to
10 amend this Complaint when such true names and capacities are discovered. Plaintiffs are informed
11 and believe, and based thereon allege, that each of said fictitious defendants, whether individual,
12 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
13 and proximately caused Plaintiffs and the Classes (as defined below) to be subject to the unlawful
14 employment practices, wrongs, injuries, and damages complained of herein.

15 6. At all times herein mentioned, each of said Defendants participated in the doing of
16 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
17 Defendants, and each of them, were the agents, servants, and employees of each of the other
18 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
19 within the course and scope of said agency and employment.

20 7. Plaintiffs are informed and believe, and based thereon allege, that at all times
21 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
22 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
23 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
24 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
25 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

26 8. At all times herein mentioned, Defendants, and each of them, were members of, and
27 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
28 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

1 9. At all times herein mentioned, the acts and omissions of various Defendants, and
2 each of them, concurred and contributed to the various acts and omissions of each and all of the
3 other Defendants in proximately causing the injuries and damages as herein alleged.

4 **FACTUAL ALLEGATIONS**

5 10. Defendants own and operate a furniture delivery and installation company that
6 contracts with Home Depot California. During the relevant time period, Defendants employed
7 Plaintiff Warthen as an hourly-paid, non-exempt employee and technician in Los Angeles County
8 and employed Plaintiff Echeverria as an hourly-paid non-exempt employee and customer service
9 representative in Carson, California.

10 11. Throughout Plaintiffs' employment with Defendants, Defendants' timekeeping
11 and/or payroll policies and practices resulted in Plaintiffs and other non-exempt employees not
12 being compensated for all hours actually worked. Plaintiffs and other non-exempt employees
13 regularly worked more than eight hours in a workday or 40 hours in a workweek. Upon information
14 and belief, Defendants required Plaintiffs and other non-exempt employees to perform work before
15 their scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks, and
16 failed to compensate employees for this time. Upon information and belief, Defendants also failed
17 to incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate
18 of pay. As a result, Plaintiffs and other non-exempt employees were not compensated for all earned
19 minimum and overtime wages.

20 12. Defendants failed to provide Plaintiffs and other non-exempt employees with all
21 legally compliant meal periods due to Defendants' meal period policies/practices, which have
22 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
23 and/or missed meal periods. Upon information and belief, Plaintiffs and other non-exempt
24 employees were not able to take their legally compliant meal breaks due to work demands imposed
25 by Defendants. Upon information and belief, Defendants do not keep accurate records of Plaintiffs'
26 and other non-exempt employees' hours worked, including accurate time records showing when
27 employees take their meal periods. On those occasions when Plaintiffs and other non-exempt
28 employees were not provided with all legally compliant meal periods to which they were entitled,

1 Defendants failed to compensate Plaintiffs and other non-exempt employees with the required meal
2 period premium(s) for each workday there was a meal period violation as mandated by Labor Code
3 § 226.7. Upon information and belief, Defendants violated Labor Code § 226.7 by failing to pay
4 meal period premiums at the correct regular rate of compensation by incorporating all non-
5 discretionary incentive compensation in the event that a legally compliant meal period was not
6 provided to their non-exempt employees.

7 13. Plaintiffs and other non-exempt employees were not authorized and permitted to take
8 all required rest periods due to Defendants' unlawful rest period policies/practices, which failed to
9 authorize and permit a net 10-minute rest period for every four hours worked, or major fraction
10 thereof. Plaintiffs and other non-exempt employees were not able to take their legally compliant rest
11 breaks due to work demands imposed by Defendants. On those occasions when Plaintiffs and other
12 non-exempt employees were not authorized and permitted to take all legally compliant rest periods
13 to which they were entitled, Defendants failed to compensate them with the required rest period
14 premium(s) for each workday there was a rest period violation as mandated by Labor Code § 226.7.
15 Upon information and belief, Defendants maintained no mechanism for the payment of rest period
16 premium payments as required by Labor Code § 226.7, in the event that a legally compliant rest
17 period was not authorized and permitted to their non-exempt employees.

18 14. Additionally, upon information and belief, Defendants violated Labor Code § 246 by
19 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration into the paid
20 sick leave pay rate.

21 15. Labor Code § 226.2 applies to employees who are compensated on a piece-rate basis
22 for any work performed during a pay period and requires employers to establish compensation and
23 wage statement requirements for rest and recovery periods and "other nonproductive time" for
24 piece-rate employees. During the relevant time period, Defendants compensated Plaintiffs and
25 aggrieved employees in part on a piece rate compensation. However, Defendants failed to comply
26 with the requirements of Labor Code section 226.2. The violations include, but are not limited to,
27 failing to calculate the correct regular rate of pay for rest and recovery period wages.

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1 16. As a result of Defendants' failure to pay all wages, failure to pay all meal and rest
2 period premium wages, and unlawful timekeeping and payroll practices as alleged above,
3 Defendants maintained inaccurate payroll records and issued inaccurate wage statements to
4 Plaintiffs and other non-exempt employees. As a further result of Defendants' failure to pay all
5 wages, sick leave wages, and meal and rest period premium wages, Defendants failed to timely pay
6 all final wages to Plaintiffs and other former non-exempt employees upon their separation of
7 employment from Defendants.

8 **CLASS ACTION ALLEGATIONS**

9 17. **Class Definitions:** Plaintiffs bring this action on behalf of themselves and the
10 following Classes pursuant to § 382 of the California Code of Civil Procedure:

- 11 a. Minimum Wage Class: All current and former non-exempt employees of Defendants
12 in the State of California who were subject to Defendants' timekeeping and payroll
13 policies and/or practices, during the four years immediately preceding the filing of
14 this action through the present.
- 15 b. Overtime Class: All current and former non-exempt employees of Defendants in the
16 State of California who worked more than eight hours per day and/or 40 hours per
17 week and were subject to Defendants' timekeeping policies and/or practices, during
18 the four years immediately preceding the filing of this action through the present.
- 19 c. Meal Period Class: All current and former non-exempt employees of Defendants in
20 the State of California who: (i) worked at least one shift in excess of 5.0 hours;
21 and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years
22 immediately preceding the filing of this action through the present.
- 23 d. Rest Period Class: All current and former non-exempt employees of Defendants in
24 the State of California who worked at least one shift of 3.5 or more hours, during the
25 four years immediately preceding the filing of this action through the present.
- 26 e. Wage Statement Class: All current and former non-exempt employees of Defendants
27 in the State of California who received a wage statement, during the one year
28 immediately preceding the filing of this action through the present.

- 1 f. Waiting Time Penalty Class: All of Defendants' formerly employed members of the
2 Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class
3 during the three years immediately preceding the filing of this action through the
4 present.
- 5 g. Piece Rate Class: All current and former non-exempt employees of Defendants in the
6 State of California who were subject to Defendants' piece-rate policies and practices,
7 during the four years immediately preceding the filing of this action through the
8 present.

9 18. **Numerosity/Ascertainability**: The members of the Classes are so numerous that
10 joinder of all members would be impractical, if not impossible. The membership of the Classes is
11 unknown to Plaintiffs at this time; however, it is estimated that the members of the Classes number
12 greater than 50 individuals. The identity of such membership is readily ascertainable via inspection
13 of Defendants' employment records, including payroll records.

14 19. **Common Questions of Law and Fact Predominate/Well-Defined Community of**
15 **Interest**: There are predominant common questions of law and fact as to Plaintiffs and members of
16 the Classes, which predominate over questions affecting only individual members including,
17 without limitation to:

- 18 a. Whether Defendants properly paid all overtime wages to members of the Overtime
19 Class;
- 20 b. Whether Defendants paid at least the minimum wage for all hours worked to
21 members of the Minimum Wage Class;
- 22 c. Whether Defendants provided all legally compliant meal periods or paid meal period
23 premium wages due to members of the Meal Period Class pursuant to Labor Code §§
24 226.7 and 512;
- 25 d. Whether Defendants authorized and permitted all legally compliant rest periods or
26 paid all rest period premium wages due to members of the Rest Period Class
27 pursuant to Labor Code §§ 226.7 and 516;

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- 1 e. Whether Defendants paid all wages due to members of the Piece Rate Class pursuant
2 to Labor Code § 226.2;
- 3 f. Whether Defendants furnished legally compliant wage statements to members of the
4 Wage Statement Class pursuant to Labor Code § 226; and
- 5 g. Whether Defendants timely paid all final wages to members of the Waiting Time
6 Class at the time of their separation of employment pursuant to Labor Code §§ 201
7 and 202.

8 These common questions of law and fact set forth above are numerous and substantial and
9 stem from Defendants' policies and/or practices applicable to each individual class member. As
10 such, the common questions predominate over individual questions concerning each individual
11 class member's showing as to their eligibility for recovery or as to the amount of their damages.

12 20. **Typicality:** The claims of Plaintiffs are typical of the claims of the Classes because
13 Plaintiffs were employed by Defendants as a non-exempt employee in California during the
14 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
15 herein, Plaintiffs, like the members of the Classes, was not paid all minimum and overtime wages
16 owed due to Defendants' timekeeping and payroll policies/practices, not provided all required meal
17 periods, not authorized and permitted all rest periods, did not receive premium pay for non-
18 compliant meal and rest periods, not paid all wages due on account of piece rate earnings, not paid
19 all final wages upon separation of employment, and not provided with accurate, compliant, itemized
20 wage statements.

21 21. **Adequacy of Representation:** Plaintiffs are fully prepared to take all necessary
22 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
23 Plaintiffs' attorneys are ready, willing and able to fully and adequately represent the members of the
24 Classes and Plaintiffs. Plaintiffs' attorneys have litigated numerous wage-and-hour class actions in
25 state and federal courts in the past and are committed to vigorously prosecuting this action on behalf
26 of the members of the Classes.

27 22. **Superiority:** The Labor Code is broadly remedial in nature and serves an important
28 public interest in establishing minimum working conditions and standards in California. These laws

1 and labor standards protect the average working employee from exploitation by employers who
2 have the responsibility to follow the laws and who may seek to take advantage of superior economic
3 and bargaining power in setting onerous terms and conditions of employment. The nature of this
4 action and the format of laws available to Plaintiffs and members of the Classes make the class
5 action format a particularly efficient and appropriate procedure to redress the violations alleged
6 herein. If each employee were required to file an individual lawsuit, Defendants would necessarily
7 gain an unconscionable advantage since they would be able to exploit and overwhelm the limited
8 resources of each individual plaintiff with their vastly superior financial and legal resources.

9 23. Moreover, requiring each member of the Class(es) to pursue an individual remedy
10 would also discourage the assertion of lawful claims by employees who would be disinclined to file
11 an action against their former and/or current employer for real and justifiable fear of retaliation and
12 permanent damages to their careers at subsequent employment. The claims of the individual
13 members of the Class are not sufficiently large to warrant vigorous individual prosecution
14 considering all of the concomitant costs and expenses attending hereto.

15 24. Furthermore, the prosecution of separate actions by the individual class members,
16 even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
17 with respect to the individual class members against Defendants herein; and which would establish
18 potentially incompatible standards of conduct for Defendants; and/or legal determinations with
19 respect to individual class members which would, as a practical matter, be dispositive of the interest
20 of the other class members not parties to adjudications or which would substantially impair or
21 impede the ability of the class members to protect their interests. As such, the Classes identified
22 hereinabove are maintainable as classes under § 382 of the Code of Civil Procedure.

23 **FIRST CAUSE OF ACTION**

24 **MINIMUM WAGE VIOLATIONS**

25 **(Against All Defendants)**

26 25. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
27 fully set forth herein.

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1 26. Labor Code §§ 1182.12, 1197, and Wage Orders, § 4 establish the right of
2 employees to be paid minimum wages for all hours worked, in amounts set by state or local law.
3 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
4 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
5 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
6 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its
7 pay practices to the requirements of the law by failing to pay Plaintiffs and members of the
8 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were
9 subject to the control of Defendants and/or suffered or permitted to work under the Labor Code and
10 Wage Orders.

11 27. Labor Code § 1198 makes unlawful the employment of an employee under
12 conditions that the IWC prohibits. California Labor Code § 1194(a) and 1194.2(a) provide that an
13 employer who has failed to pay its employees the legal minimum wage is liable to pay those
14 employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount
15 equal to the wages due and interest thereon.

16 28. As a consequence of Defendants' non-payment of minimum wages, Plaintiffs and
17 members of the Minimum Wage Class seek recovery of the balance of unpaid wages, including
18 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
19 218.6, 558, 1194, 1194.2, and 1199, Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and
20 3289.

21 **SECOND CAUSE OF ACTION**
22 **OVERTIME WAGE VIOLATIONS**
23 **(Against All Defendants)**

24 29. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
25 fully set forth herein.

26 30. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, 1198, and
27 Wage Orders, § 3, which provide that non-exempt employees are entitled to all overtime wages and
28 compensation for all overtime hours worked and provide a private right of action for the failure to

1 pay all overtime compensation for overtime work performed.

2 31. At all times relevant herein, Defendants were required to properly compensate non-
3 exempt employees, including Plaintiffs and members of the Overtime Class, for all overtime hours
4 worked pursuant to Labor Code § 1194 and Wage Orders. Wage Orders, § 3 requires an employer
5 to pay an employee one and one-half (1½) times and two times the employee's regular rate of pay
6 for overtime and double time hours work. Defendants caused Plaintiffs and members of the
7 Overtime Class to work overtime hours but failed to compensate these employees for all overtime
8 hours actually worked.

9 32. As a consequence of Defendants' non-payment of overtime wages, Plaintiffs and
10 members of the Overtime Class seek recovery of the balance of unpaid overtime wages, including
11 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
12 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§
13 3287 and 3289.

14 **THIRD CAUSE OF ACTION**

15 **MEAL PERIOD VIOLATIONS**

16 **(Against All Defendants)**

17 33. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
18 fully set forth herein.

19 34. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed
20 in their affirmative obligation to provide all of their non-exempt employees in California, including
21 Plaintiffs and members of the Meal Period Class, with all legally compliant meal periods in
22 accordance with the mandates of the Labor Code and Wage Orders, § 11.

23 35. Despite Defendants' violations, Defendants did not pay an additional hour of pay to
24 Plaintiffs and members of the Meal Period Class at their respective regular rates of compensation, in
25 accordance with California Labor Code §§ 204, 210, 226.7, and 512.

26 36. As a consequence of Defendants' unlawful meal period practices, Plaintiffs and
27 members of the Meal Period Class seek recovery of unpaid premium wages for meal period
28 violations including interest thereon, statutory penalties, and costs of suit, pursuant to Labor Code

1 §§ 226.7, 512, 558, Wage Orders, and Civil Code §§ 3287 and 3289.

2 **FOURTH CAUSE OF ACTION**

3 **REST PERIOD VIOLATIONS**

4 **(Against All Defendants)**

5 37. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
6 fully set forth herein.

7 38. Labor Code §§ 226.7, 516, 558, and Wage Orders, § 12 and establish the right of
8 employees to be provided with a rest period of at least 10 minutes for each four-hour period
9 worked, or major fraction thereof. Plaintiffs are informed and believe, and based thereon allege, that
10 despite Defendants' failure to authorize and permit Plaintiffs and members of the Rest Period Class
11 to take all legally compliant rest periods as alleged herein, Defendants did not pay these individuals
12 an additional hour of pay at their respective regular rate for the rest periods that they failed to
13 authorize and permit them to take, as required by Labor Code § 226.7.

14 39. As a consequence of Defendants' unlawful rest period practices, Plaintiffs and
15 members of the Rest Period Class seek recovery of unpaid premium wages for rest period violations
16 including interest thereon, statutory penalties, and costs of suit, statutory penalties, attorneys' fees,
17 and costs of suit according to Labor Code §§ 226.7, 516, 558, Wage Orders, and Civil Code §§
18 3287 and 3289.

19 **FIFTH CAUSE OF ACTION**

20 **WAGE STATEMENT PENALTIES**

21 **(Against All Defendants)**

22 40. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
23 fully set forth herein.

24 41. Plaintiffs are informed and believe, and based thereon allege, that Defendants
25 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiffs
26 and members of the Wage Statement Class with accurate and complete, itemized wage statements
27 that included, among other requirements, all hours worked, total gross wages earned, all rates of pay
28 and corresponding number of hours worked, total net wages earned, the inclusive dates of the pay

1 period, and/or the correct name and address of the legal entity that is the employer in violation of
2 Labor Code § 226.

3 42. Defendants' failure to furnish Plaintiffs and members of the Wage Statement Class
4 with accurate and complete, itemized wage statements resulted in actual injury, as said failures led
5 to, among other things, the non-payment of minimum and overtime wages and meal and rest period
6 premium wages owed and deprived them of the information necessary to identify the discrepancies
7 in Defendants' reported payroll data.

8 43. As a consequence of Defendants' unlawful wage statement practices, Plaintiffs and
9 members of the Wage Statement Class seek damages and/or statutory penalties, reasonable
10 attorneys' fees, and costs of suit according to California Labor Code § 226.

11 **SIXTH CAUSE OF ACTION**

12 **WAITING TIME PENALTIES**

13 **(Against All Defendants)**

14 44. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
15 fully set forth herein.

16 45. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an
17 employer to pay all wages immediately at the time of separation of employment in the event the
18 employer discharges the employee or the employee provides at least 72 hours of notice of their
19 intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit,
20 said employee's wages become due and payable not later than 72 hours upon said employee's last
21 date of employment.

22 46. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed
23 to timely pay members of the Waiting Time Class all final wages due to them at their separation
24 from employment, including unpaid wages as well as unpaid meal and rest period premium wages.

25 47. Furthermore, Plaintiffs are informed and believe, and based thereon allege, that as a
26 matter of uniform policy and practice, Defendants continue to fail to pay members of the Waiting
27 Time Class all earned wages at the end of employment in a timely manner pursuant to the
28 requirements of Labor Code §§ 201-202.

1 48. Defendants’ failure to pay all final wages was willful within the meaning of Labor
2 Code § 203. Defendants’ willful failure to timely pay members of the Waiting Time Class their
3 earned wages upon separation from employment results in continued payment of daily wages up to
4 thirty days from the time the wages were due.

5 49. As a consequence of Defendants’ unlawful practices, members of the Waiting Time
6 Class seek statutory penalties, and costs of suit according to California Labor Code § 203.

7 **SEVENTH CAUSE OF ACTION**

8 **PIECE-RATE VIOLATIONS**

9 **(Against All Defendants)**

10 50. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
11 fully set forth herein.

12 51. Labor Code § 226.2 applies to employees who are compensated on a piece-rate basis
13 for any work performed during a pay period and requires employers to establish compensation and
14 wage statement requirements for rest and recovery periods and “other nonproductive time” for
15 piece-rate employees.

16 52. During the relevant time period, Defendants compensated Plaintiffs and aggrieved
17 employees in part on a piece rate compensation. However, Defendants failed to comply with the
18 requirements of Labor Code section 226.2. The violations include, but are not limited to, failing to
19 calculate the correct regular rate of pay for rest and recovery period wages.

20 53. As a consequence of Defendants’ unlawful practices, Plaintiffs and members of the
21 class seek recovery of unpaid wages, including interest thereon, reasonable attorneys’ fees, and
22 costs of suit pursuant to Labor Code § 226.2.

23 **EIGHTH CAUSE OF ACTION**

24 **UNFAIR COMPETITION**

25 **(Against All Defendants)**

26 54. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
27 fully set forth herein.

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1 55. Defendants have engaged and continue to engage in unfair and/or unlawful business
2 practices in California in violation of Business and Professions Code § 17200, *et seq.*, by:

- 3 a. failing to pay Plaintiffs and members of the Minimum Wage Class all minimum
4 wages due;
- 5 b. failing to pay Plaintiffs and members of the Overtime Class all overtime wages due;
- 6 c. failing to provide Plaintiffs and members of the Meal Period Class with all meal
7 periods to which they are entitled, and failing to pay them all meal period premium
8 wages due;
- 9 d. failing to authorize and permit Plaintiffs and members of the Rest Period Class all
10 rest periods to which they are entitled, and failing to pay them all rest period
11 premium wages due;
- 12 e. failing to pay all wages due to Plaintiffs and members of the Piece Rate Class;
- 13 f. failing to issue accurate and itemized wage statements to Plaintiffs and members of
14 the Wage Statement Class; and
- 15 g. failing to timely pay all final wages to Plaintiffs and members of the Waiting Time
16 Penalty Class.

17 56. Defendants' utilization of these unfair and/or unlawful business practices deprived
18 Plaintiffs and continues to deprive members of the Classes of compensation to which they are
19 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
20 over Defendants' competitors who have been and/or are currently employing workers and
21 attempting to do so in honest compliance with applicable wage and hour laws.

22 57. Because Plaintiffs are a victim of Defendants' unfair and/or unlawful conduct
23 alleged herein, Plaintiffs for themselves and on behalf of the members of the Classes, seeks full
24 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,
25 acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and
26 17208.

27 58. The acts complained of herein occurred within the last four years immediately
28 preceding the filing of the Complaint in this action.

1 **NINTH CAUSE OF ACTION**

2 **PRIVATE ATTORNEYS GENERAL ACT**

3 **(Against All Defendants)**

4 59. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
5 fully set forth herein.

6 60. Plaintiffs, “aggrieved employees” within the meaning of Labor Code §§ 2698, *et*
7 *seq.*, acting on behalf of themselves and other aggrieved employees (collectively, “Aggrieved
8 Employees”), bring this representative action against Defendants to recover the civil penalties due
9 to Plaintiffs and other Aggrieved Employees, and the State of California according to proof
10 pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for
11 each initial violation for each failure to pay each employee and \$200 for each subsequent violation
12 or willful or intentional violation pursuant to Labor Code §§ 210 and/or 225.5 for each failure to
13 pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial
14 violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per
15 pay period; (3) \$100 for each initial violation and \$250 for each subsequent violation pursuant to
16 Labor Code § 1197.1 per employee per pay period; (4) \$250 for each initial violation and \$1,000 for
17 each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5)
18 pursuant to Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former
19 employee as waiting time under the terms of Labor Code § 203; and/or (6) \$100 for each initial
20 violation and \$200 for each subsequent violation per employee per pay period for those violations
21 of the Labor Code for which no civil penalty is specifically provided, based on the following Labor
22 Code violations:

- 23 a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in
24 violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- 25 b. Failing to pay Aggrieved Employees all earned overtime compensation in violation
26 of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 27 c. Failing to provide all legally required meal periods, and failure to pay meal period
28 premium wages, to Aggrieved Employees at the regular rate of compensation in

violation of Labor Code §§ 226.7, 512, 558, and 1198;

- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages and compensation earned by Aggrieved Employees at the time of separation in violation of Labor Code §§ 201-202;
- g. Failure to pay all wages due to Aggrieved Employees in violation of Labor Code § 226.2;
- h. Failing to pay Aggrieved Employees all paid sick leave wages in violation of Labor Code § 246;
- i. Failing to pay Aggrieved Employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- j. Failing to maintain accurate records on behalf of Aggrieved Employees in violation of Labor Code §§ 1174 and 1198.

61. On or about January 13, 2025, Plaintiff Warthen notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the Labor Code and Plaintiffs’ intent to bring a claim for civil penalties under Labor Code §§ 2698, *et seq.* with respect to the violations of the Labor Code identified in the preceding paragraph. Now that 33 days and 65 days have passed from Plaintiff Warthen notifying Defendants and the LWDA of these violations, Defendants have not cured any curable violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiffs have exhausted administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

62. Plaintiffs have incurred attorneys’ fees and costs, which Plaintiffs are entitled to receive under California Labor Code § 2699(g).

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose
3 behalf this suit is brought against Defendants, as follows:

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiffs as representatives of the Classes;
- 6 3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
8 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
9 1197;
- 10 5. Upon the Second Cause of Action, for payment of overtime wages and penalties
11 according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 12 6. Upon the Third Cause of Action, for meal period premium wages according to proof
13 pursuant to Labor Code §§ 226.7, 512, and 558;
- 14 7. Upon the Fourth Cause of Action, for rest period premium wages according to proof
15 pursuant to Labor Code §§ 226.7, 516, and 558;
- 16 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
17 226;
- 18 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
19 203;
- 20 10. Upon the Seventh Cause of Action, for unpaid wages according to proof pursuant to
21 Labor Code § 226.2;
- 22 11. Upon the Eighth Cause of Action, for restitution to Plaintiffs and members of the
23 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
24 practices declared by this Court to be in violation of Business and Professions Code §§ 17200, *et*
25 *seq.*;
- 26 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiffs, other Aggrieved
27 Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and
28 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to

1 pay each employee and \$200 for each subsequent violation or willful or intentional violation
2 pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each employee, plus 25% of the
3 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
4 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
5 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee
6 per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation
7 pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code § 256, a
8 civil penalty in an amount not exceeding 30 days per former employee as waiting time under the
9 terms of Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each
10 subsequent violation per employee per pay period for those violations of the Labor Code for which
11 no civil penalty is specifically provided;

12 13. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6
13 and Civil Code §§ 3287 and 3289;

14 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
15 218.5, 226, 1194, 2699(g), and Code of Civil Procedure § 1021.5; and

16 15. For such other and further relief, the Court may deem just and proper.

17 **DEMAND FOR JURY TRIAL**

18 Plaintiffs hereby demand a trial by jury on all claims.

19
20 DATED: March 20, 2025

JUSTICE FOR WORKERS, P.C.

21
22 By: 

23 William C. Sung
24 Tiffany L. Luu
25 Joseph C. Ramli
26 Attorneys for Plaintiffs JEROME WARTHEN, JR.
27 and CLAUDIA ECHEVERRIA
28