

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Fletcher W. Schmidt (SBN 286462)
fschmidt@haineslawgroup.com
Andrew J. Rowbotham (SBN 301367)
arowbotham@haineslawgroup.com
Susan J. Perez (SBN 329044)
sperez@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355
Attorneys for Plaintiff

FILED
Superior Court of California
County of Los Angeles

08/22/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: K. Martinez Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JUAN DAVID ARREOLA CARRILLO, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

KPS GLOBAL LLC, a Delaware Limited
Liability Company; and DOES 1 through 100,

Defendants.

Case No.: 22STCV19527

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

- (1) **FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (5) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (6) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE §§ 2698, *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Juan David Arreola Carrillo (“Plaintiff”) on behalf of himself and all others
2 similarly situated, hereby brings this First Amended Class and Representative Action Complaint
3 against Defendant KPS Global LLC, a Delaware Limited Liability Company, and DOES 1 to 100,
4 inclusive (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 action for recovery of unpaid wages and penalties under California Labor Code §§ 201-204, 226
8 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, and 2698 *et seq.*, Business
9 and Professions Code § 17200 *et. seq.*, and Industrial Welfare Commission Wage Order 1 (“Wage
10 Order 1”), in addition to seeking declaratory relief and restitution. This action is brought pursuant
11 to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’
12 violations of the California Labor Code because the amount in controversy exceeds this Court’s
13 jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in the County of Los Angeles. Defendants transact business within the County of Los
18 Angeles and/or otherwise are found within the County of Los Angeles, and Defendants are within
19 the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is, a California resident living within Los Angeles County. During the
23 four years immediately preceding the filing of this action and within the statute of limitations
24 periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as
25 a non-exempt employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices
26 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
27 by Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197,
28 1198, and 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.* (“Unfair

Competition Law”), and Wage Order 1, which sets employment standards for the manufacturing industry.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing this action and continuing to the present, Defendants did (and continue to do) business within the County of Los Angeles and the State of California by operating a manufacturing facility and therefore, were (and are) doing business in the County of Los Angeles and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to further amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined herein) to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

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

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
2 members of the Classes.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Defendants operate a manufacturing facility specializing in custom walk-in
5 coolers, walk-in freezers and industrial cold storage applications in San Dimas, California.
6 Plaintiff was employed by Defendants as a non-exempt “Assembler” and “Machine Operator”
7 from approximately May 2017 to approximately December 2021.

8 10. During Plaintiff’s employment with Defendants, Plaintiff routinely worked in
9 excess of 8 hours per workday and/or more than 40 hours per workweek but did not receive
10 overtime compensation equal to one and one-half times his regular rate of pay for working
11 overtime hours. Specifically, Plaintiff and other non-exempt employees earned non-discretionary
12 safety bonuses and other forms of pay that cannot be excluded from the regular rate of pay as a
13 matter of law (hereinafter “Incentive Pay”). As a result of paying Plaintiff and other non-exempt
14 employees Incentive Pay, Defendants failed to properly calculate the regular rate of pay, resulting
15 in unpaid overtime wages.

16 11. Defendants also failed to compensate Plaintiff and other non-exempt employees
17 for all hours actually worked, resulting in unpaid minimum wages and additional unpaid overtime
18 wages. Plaintiff and other non-exempt employees often worked with adhesives and other time
19 sensitive materials that could not be left unattended or uncompleted. Defendants required non-
20 exempt employees, including Plaintiff, to clock out for a meal period prior to the end of the fifth
21 hour of work, regardless of whether they were actually provided with a meal period. Specifically,
22 when a machine could not be stopped or there was no one to watch the machine, employees were
23 forced to clock out but continue working, take their lunch later in the workday, or forego lunch
24 altogether. As a result, Plaintiff and other non-exempt employees were not credited with all hours
25 actually worked and were not paid all minimum and overtime wages earned.

26 12. Defendants also failed to provide Plaintiff and other non-exempt employees with
27 all legally compliant meal periods due to Defendants’ unlawful meal period policies/practices that
28 failed to provide timely, duty-free 30-minute first meal periods commencing before the end of the

1 fifth hour of work and a second duty-free, 30-minute meal period when they worked shifts in
2 excess of 10.0 hours. As discussed above, Plaintiff and other non-exempt employees were often
3 required to work through their meal period, delay their meal period, or forego their meal period
4 altogether when working with adhesives or other time sensitive materials. Additionally, during a
5 portion of the relevant time period, Defendants utilized a bell system that, upon information and
6 belief, did not ring to signify the provision of a second meal period for shifts in excess of 10.0
7 hours. Defendants failed to pay Plaintiff and other non-exempt employees an additional hour of
8 premium pay at their respective regular rates of pay for each workday in which a meal period
9 violation occurred, as required by Labor Code § 226.7.

10 13. Defendants also failed to authorize and permit Plaintiff and other non-exempt
11 employees to take duty-free 10-minute rest periods for every four hours worked, or major fraction
12 thereof, due to Defendants' unlawful rest period policies/practices. Specifically, Defendants
13 failed to authorize and permit a third, 10-minute rest period when Plaintiff and other non-exempt
14 employees worked a shift in excess of 10.0 hours. Plaintiff and other non-exempt employees were
15 also regularly required to delay or forgo their first and second rest periods when working with
16 adhesives or other time sensitive materials. Additionally, during a portion of the relevant time
17 period, Defendants utilized a bell system that, upon information and belief, did not ring to signify
18 the provision of a third rest period for shifts in excess of 10.0 hours. Defendants failed to
19 compensate Plaintiff and other non-exempt employees with an additional hour of premium pay at
20 their respective regular rates of pay for each workday in which a rest period violation occurred,
21 as required by Labor Code § 226.7.

22 14. Upon information and belief, during at least a portion of the relevant time period,
23 Defendants failed to maintain pay codes for the payment of meal and rest period premium
24 payments as required by Labor Code § 226.7.

25 15. As a result of Defendants' failure to pay all overtime wages, minimum wages, and
26 meal and rest period premium wages owed, Defendants also maintained inaccurate payroll
27 records, issued inaccurate wage statements to Plaintiff and other non-exempt employees, and
28 failed to pay all final wages owed to Plaintiff and other non-exempt employees upon their

1 respective separations from employment.

2 16. On approximately April 15, 2022, Plaintiff submitted a written personnel and
3 payroll records request to Defendants. Defendants failed to respond to Plaintiff's records request
4 within 21 days from the date of the request in violation of Labor Code § 226(c).

5 **CLASS ACTION ALLEGATIONS**

6 17. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
7 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 8 a. The Overtime Class consists of all Defendants' current and former non-exempt
9 employees in California who worked more than 8.0 hours per day and/or 40.0
10 hours per workweek and: (i) received Incentive Pay during a corresponding time
11 period; and/or (ii) were subject to Defendants' timekeeping policies and/or
12 practices for non-exempt employees, during the four years immediately preceding
13 the filing of this action through the present.
- 14 b. The Minimum Wage Class consists of all Defendants' current and former non-
15 exempt employees in California who were subject to Defendants' timekeeping
16 policies and/or practices during the four years immediately preceding the filing of
17 the Complaint through the present.
- 18 c. The Meal Period Class consists of all Defendants' current and former non-exempt
19 employees in California who: (i) worked at least one shift in excess of 5.0 hours
20 during the four years immediately preceding the filing of this action through the
21 present.
- 22 d. The Rest Period Class consists of all Defendants' current and former non-exempt
23 employees in California who worked at least one shift in excess of 3.5 hours,
24 during the four years immediately preceding the filing of this action through the
25 present.
- 26 e. The Wage Statement Class consists of all members of the Overtime Class,
27 Minimum Wage Class, Meal Period Class, and/or Rest Period Class who received
28 a wage statement from Defendants, during the one year immediately preceding the

filing of this action through the present.

- f. The Waiting Time Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class who separated their employment with Defendants during the three years immediately preceding the filing of this action through the present.

18. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

19. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated non-exempt employees, which predominate over questions affecting only individual members including, without limitation:

- i. Whether Defendants lawfully paid premium wages for all overtime hours worked to members of the Overtime Class pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;
- ii. Whether Defendants lawfully paid all minimum wages for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iv. Whether Defendants authorized and permitted all lawful rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- v. Whether Defendants correctly paid meal and/or rest period premium payments for non-compliant meal and/or rest periods pursuant to Labor Code § 226.7;
- vi. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226; and

vii. Whether Defendants paid all wages/compensation due upon separation to members of the Waiting Time Class pursuant to Labor Code §§ 201-203.

20. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform overtime and minimum wage policies/practices, meal and rest period policies/practices. As such, common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

21. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all overtime and minimum wages owed, was not provided all required meal periods, was not authorized and permitted to take all required rest periods, was not provided with accurate, itemized wage statements, and did not receive all final wages owed at the time of his separation from employment.

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

23. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff

1 and members of the Classes make the class action format a particularly efficient and appropriate
2 procedure to redress the violations alleged herein. If each employee were required to file an
3 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
4 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
5 their vastly superior financial and legal resources. Moreover, requiring each member of the
6 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
7 employees who would be disinclined to file an action against their former and/or current employer
8 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
9 employment. Further, the prosecution of separate actions by the individual class members, even
10 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
11 with respect to the individual class members against Defendants herein; and which would
12 establish potentially incompatible standards of conduct for Defendants; and/or legal
13 determinations with respect to individual class members which would, as a practical matter, be
14 dispositive of the interests of the other class members not parties to adjudications, or which would
15 substantially impair or impede the ability of the class members to protect their interests. Further,
16 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
17 individual prosecution considering all of the concomitant costs and expenses attending thereto.
18 As such, the Classes identified herein are maintainable as a Class under § 382 of the Code of Civil
19 Procedure.

20 **FIRST CAUSE OF ACTION**

21 **FAILURE TO PAY ALL OVERTIME WAGES**

22 **(AGAINST ALL DEFENDANTS)**

23 24. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24 25. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
25 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
26 overtime hours worked, and provide a private right of action for the failure to pay all overtime
27 compensation for overtime work performed.

28 26. At all times relevant herein, Defendants were required to properly pay Plaintiff

1 and members of the Overtime Class for all overtime hours worked pursuant to California Labor
2 Code § 1194 and Wage Order 1. Wage Order 1 § 3 requires an employer to pay an employee “one
3 and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight
4 (8) hours” per workday and/or in excess of 40 hours of work in the workweek.

5 27. At all times relevant herein, Defendants caused Plaintiff and members of the
6 Overtime Class to work overtime hours but did not compensate Plaintiff or members of the
7 Overtime Class at one and one-half times their regular rate of pay for such hours.

8 28. The foregoing policies and practices are unlawful and create entitlement to
9 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
10 premiums owing, including interest thereon, statutory and civil penalties, attorney’s fees, and
11 costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order
12 1, and Code of Civil Procedure § 1021.5.

13 **SECOND CAUSE OF ACTION**

14 **MINIMUM WAGE VIOLATIONS**

15 **(AGAINST ALL DEFENDANTS)**

16 29. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

17 30. Wage Order 1 § 4 and California Labor Code §§ 1197 and 1182.12 establish the
18 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.
19 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
20 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
21 attorneys’ fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
22 wages and interest accrued thereon.

23 31. At all relevant times herein, Defendants failed to conform their pay practices to
24 the requirements of the law. This unlawful conduct includes but is not limited to all hours they
25 were subject to Defendants’ control. Accordingly, Plaintiff and members of the Minimum Wage
26 Class were not compensated for all hours actually worked as required by the California Labor
27 Code and Wage Order 1.

28 32. California Labor Code § 1198 makes unlawful the employment of an employee

1 under conditions that the Industrial Welfare Commission prohibits. California Labor Code
2 §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal
3 minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well
4 as liquidated damages in an amount equal to the wages due and interest thereon.

5 33. As a direct and proximate result of Defendants' unlawful conduct as alleged
6 herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including, but
7 not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are
8 entitled to recover economic and statutory damages and penalties and other appropriate relief as
9 a result of Defendants' violations of the California Labor Code and Wage Order 1.

10 34. Defendants' timekeeping policies/practices are unlawful and create an entitlement
11 to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid
12 amount of minimum wages, liquidated damages, including interest thereon, statutory penalties,
13 civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 210,
14 216, 558, 1194, 1194.2, and 1198, and Code of Civil Procedure § 1021.5.

15 **THIRD CAUSE OF ACTION**

16 **MEAL PERIOD VIOLATIONS**

17 **(AGAINST ALL DEFENDANTS)**

18 35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 failed in their affirmative obligation to provide all of their non-exempt employees in California,
21 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
22 in accordance with the mandates of the California Labor Code and Wage Order 1 § 11, for the
23 reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite
24 Defendants' violations, Defendants did not pay an additional hour of premium pay to Plaintiff
25 and members of the Meal Period Class at their respective regular rates of pay, in accordance with
26 California Labor Code §§ 226.7 and 512.

27 37. As a result, Defendants are responsible for paying premium compensation for meal
28 period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit,

pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 1, and Code of Civil Procedure § 1021.5.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

38. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

39. Wage Order 1 § 12 and Labor Code §§ 226.7 and 516 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof.

40. As alleged herein, and due to Defendants' unlawful rest period policies and/or practices, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all lawful rest periods to which they were legally entitled. Despite Defendants' violations, Defendants failed to pay an additional hour of premium pay to Plaintiff and members of the Rest Period Class at their respective regular rates of pay for each violation, as required by California Labor Code § 226.7.

41. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor Code §§ 226.7, 516, and 558, Wage Order 1, and Code of Civil Procedure § 1021.5.

FIFTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

42. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

43. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements that included, among other requirements, all overtime and minimum wages earned, and all meal and rest period premium wages owed, in violation of Labor Code § 226 *et seq.*

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

6 45. Defendants' failures create an entitlement to recovery by Plaintiff and members of
7 the Wage Statement Class in a civil action for damages and/or penalties pursuant to Labor Code
8 § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs
9 of suit according to California Labor Code § 226 *et seq.*

10 **SIXTH CAUSE OF ACTION**

11 **WAITING TIME PENALTIES**

12 **(AGAINST ALL DEFENDANTS)**

13 46. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

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

20 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
22 at the time of their separation including, among other things, underpaid overtime and minimum
23 wages owed, and meal and rest period premium wages. Further, Plaintiff is informed and believes,
24 and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue
25 to fail to pay members of the Waiting Time Class all earned wages at the end of employment in
26 a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to
27 pay all final wages was willful within the meaning of Labor Code § 203.

28 49. Defendants' willful failure to timely pay Plaintiff and members of the Waiting

1 Time Class all earned wages upon separation from employment results in a continued payment
2 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
3 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
4 plus reasonable attorneys' fees and costs of suit.

5 **SEVENTH CAUSE OF ACTION**

6 **UNFAIR COMPETITION**

7 **(AGAINST ALL DEFENDANTS)**

8 50. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

9 51. Defendants have engaged, and continue to engage, in unfair and/or unlawful
10 business practices in California in violation of California Business and Professions Code § 17200
11 *et seq.*, by, amongst other things, failing to pay Plaintiff and the Classes all overtime and minimum
12 wages owed, failing to pay all required meal and rest period premium wages owed, knowingly
13 failing to furnish complete and accurate itemized wage statements, and failing to pay all final
14 wages at the time of separation from employment.

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

20 53. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
21 herein, Plaintiff, for himself and on behalf of the members of the Classes, seeks full restitution of
22 monies as necessary and according to proof to restore any and all monies withheld, acquired
23 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

24 54. The acts complained of herein occurred within the last four years immediately
25 preceding the filing this action.

26 55. Plaintiff was compelled to retain the services of counsel to file this court action to
27 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf
28 of Defendants' current non-exempt employees, and to enforce important rights affecting the

1 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
2 which he is entitled to recover under Code of Civil Procedure § 1021.5.

3 **EIGHTH CAUSE OF ACTION**

4 **PRIVATE ATTORNEYS GENERAL ACT**

5 **(AGAINST ALL DEFENDANTS)**

6 56. Plaintiff re-alleges and incorporates by references all previous paragraphs.

7 57. Defendants have committed several Labor Code violations against Plaintiff,
8 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
9 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
10 employees, brings this representative action against Defendants to recover the civil penalties due
11 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
12 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
13 to: (1) \$100.00 for each initial violation for each failure to pay each employee pursuant to Labor
14 Code § 210 for each failure to pay each employee; (2) \$50.00 for each initial violation pursuant
15 to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation pursuant
16 to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation
17 pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial
18 violation per employee per pay period for those violations of the Labor Code for which no civil
19 penalty is specifically provided, based on the following Labor Code violations:

- 20 a. Failing to pay Plaintiff and other aggrieved employees all overtime compensation
21 earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 22 b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
23 wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2,
24 and 1197;
- 25 c. Failing to provide meal periods as required by law and failing to pay meal period
26 premiums to Plaintiff and other aggrieved employees at their respective regular
27 rates of compensation for meal period violations in violation of Labor Code
28 §§ 226.7, 512, and 558;

- d. Failing to authorize and permit Plaintiff and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premiums to Plaintiff and other aggrieved employees at their respective regular rates of compensation for rest period violations in violation of Labor Code §§ 226.7, 516, and 558;
- e. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages due to Plaintiff and other aggrieved employees in violation of Labor Code §§ 201-203;
- g. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204 by; and
- h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 558 and 1174.

58. On June 15, 2022, Plaintiff notified Defendants, via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via e-mail of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor Code identified herein. Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

59. Based on the foregoing, Plaintiff seeks to represent himself and all other Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all of Defendants’ current and former nonexempt employees who worked for Defendants in California at any time between June 15, 2021, and the present.

60. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to receive under California Labor Code § 2699.

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties owed according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512 and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code § 226 *et. seq.*;
9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of California Business and Professions Code § 17200 *et seq.*;
11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee pursuant to Labor Code § 210 for each failure to pay each employee; (2) \$50.00 for each initial violation pursuant to Labor Code § 558 per

1 employee per pay period; (3) \$100.00 for each initial violation pursuant to Labor Code § 1197.1
2 per employee per pay period; (4) \$250.00 for each initial violation pursuant to Labor
3 Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation per
4 employee per pay period for those violations of the Labor Code for which no civil penalty is
5 specifically provided, based on the violations of Labor Code sections cited in Paragraph 57 (a)-
6 (h) above;

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

9 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
10 §§ 218.5, 1194, 226, and Code of Civil Procedure § 1021.5; and

11 14. For such other and further relief the Court may deem just and proper.

12
13 Dated: August 22, 2022

Respectfully submitted,
HAINES LAW GROUP, APC

14
15 By:



Fletcher W. Schmidt
Attorneys for Plaintiff

16
17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

19
20 Dated: August 22, 2022

HAINES LAW GROUP, APC

21
22 By:



Fletcher W. Schmidt
Attorneys for Plaintiff

PROOF OF SERVICE

Juan David Arreola Carrillo v. KPS Global LLC
Los Angeles County Superior Court Case No. 22STCV19527

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is [X] 2155 Campus Drive, Suite 180, El Segundo, California 90245.

On August 22, 2022, I served the foregoing document(s) described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested party(ies) in this action as follows:

KPS Global LLC
c/o CSC - Lawyers Incorporating Service
2710 Gateway Oaks Dr., Ste. 150N
Sacramento, CA 95833

[X] (BY MAIL) I am "readily familiar" with Haines Law Group, APC's practice of collection and processing correspondence for mailing. I enclosed the document(s) in a sealed envelope or package addressed to the persons at the address(es) listed above. Under the practice the correspondence would be deposited with the U.S. postal service on the same day with postage thereof fully prepaid at El Segundo, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage date is more than one day after date of deposit for mailing in affidavit.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 22, 2022, at El Segundo, California.



Nestor Castillo