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

JORGE HERNANDEZ, an individual, on behalf
 of himself and all others similarly situated;

Plaintiffs,

v.

ANDY'S PRECISION SEAL & STRIPE, INC.,
 California Corporation; ANDREW MACHADO,
 an individual; and DOES 1 - 100, inclusive;

Defendants.

Case Number: **22STCV30219**

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wage (Class Claim; Cal. Lab. Code §§ 1182.12, 1194, 1197 & 1198, *et seq.*);
2. Failure to Pay Overtime Compensation (Class Claim; Cal. Lab. Code §§ 1198 & 510, *et seq.*);
3. Failure to Pay Meal Period Compensation (Class Claim; Cal. Lab. Code §§ 226.7, 512(a) & 1198 *et seq.*);
4. Failure to Pay Rest Period Compensation (Class Claim; Cal. Lab. Code §§ 226.7 & 1198 *et seq.*);
5. Failure to Furnish Accurate Wage and Hour Statements (Class Claim; Cal. Lab. Code § 226);
6. Failure to Pay Wages Upon Discharge (Class Claim; Cal. Lab. Code §§ 201 & 202, *et seq.*);
7. Failure to Indemnify (Class Claim; Cal. Lab. Code § 2802)
8. Unfair Competition (Class Claim; Business and Professions Code § 17200 *et seq.*)
9. Violation of the Private Attorneys General Act (PAGA) of 2004, California Labor Code § 2698 *et seq.*;

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff JORGE HERNANDEZ (“Plaintiff”) individually, on behalf of themselves and all others similarly situated, hereby complain against Defendants ANDY'S PRECISION SEAL & STRIPE, INC., a California Corporation, (“ANDY’S PRECISION”), ANDREW MACHADO, an individual (“MACHADO”), and DOES 1 - 100, inclusive, (collectively “Defendants”) and each of them, and alleges as follows:

NATURE OF THE ACTION

1. This is a class action complaint for wage and labor violations arising out of, among other things, failure to pay wages, pay overtime, and provide meal and rest breaks to its employees, etc.

2. As more fully set forth herein, Defendants failed to pay for all time worked every pay period, specifically including required minimum wages and daily overtime; failed to provide off-duty meal and rest periods to its employees in accordance with the California Labor Code §226.7 and applicable Industrial Wage Order; failed to pay its employees one hour of pay at their regular rate of compensation for each instance that Defendants failed to provide statutorily mandated rest periods and off-duty meal periods; and for penalties arising from Defendants issuing to its employees inaccurate wage statements.

JURISDICTION

3. This class action is brought pursuant to California Code of Civil Procedure section 382. The monetary damages, penalties, and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10. The statutes under which this action is brought do not specify any other basis for jurisdiction. [L]
[SEP]

4. This Court has personal jurisdiction over Defendants because Defendants engaged in wrongful conduct in the State of California, which caused harm to Plaintiffs in this state.

5. Venue is proper in this Court, because Defendants employ persons in this county, employed Plaintiffs in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county. Cal. Civ. Proc. Code § 395.

PARTIES

1 6. Plaintiff JORGE HERNANDEZ is a male individual and a resident and citizen of the State
2 of California, County of Los Angeles.

3 7. Plaintiff is informed and believes, and based thereon alleges that Defendant ANDY'S
4 PRECISION is a California corporation, and at all times hereinafter mentioned, an employer whose
5 employees are engaged throughout this county, organized and existing under the laws of the State of
6 California with its principle place of business located in East Rancho Dominguez, California.

7 8. Plaintiff is informed and believes, and based thereon alleges that Defendant MACHADO is
8 a male individual, a California resident, and at all times hereinafter mentioned, being sued under
9 California Labor Code Section 558.1 as Chief Executive Officer.

10 9. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned
11 Defendants and DOES 1 through 100, are and were individuals, sole proprietorships, corporations,
12 business entities, persons, and partnerships, licensed to do business and/or actually doing business
13 in the State of California.

14 10. Plaintiff is unaware of the true names and capacities, whether informed and believed and
15 thereon alleged that at all times herein mentioned Defendants and DOES 1 through 100, are and were
16 individual, corporate, associate, or otherwise, of the defendants sued as DOES 1 through 100,
17 inclusive. They are unknown to Plaintiff and therefore Plaintiff sues them by such fictitious names.
18 Plaintiff will amend this complaint to allege their true names and capacities when they become
19 known to Plaintiff. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100,
20 inclusive, are indebted to Plaintiff as hereinafter alleged, and that Plaintiff's rights against such
21 fictitiously named Defendants arise from such indebtedness.

22 11. Plaintiff is informed and believes, and on that basis alleges that each defendant sued in this
23 action, including each defendant sued by the fictitious names DOES 1 through 100, inclusive, is
24 responsible and liable in some manner for the occurrences, controversies and damages alleged below.

25 12. All references to "Defendant," "Defendants," "company," "company's," "employer" or any
26 similar language, whether singular or plural, shall mean "Defendants, and each of them" when used
27 throughout this complaint.
28

1 13. At all times herein mentioned, Defendants participated in the doing of the acts and omissions
2 herein alleged, were acting within the purpose, course and scope of said agency and/or employment
3 to have been done by the named Defendants; and furthermore, the Defendants, and each of them,
4 were the agents, managing agents, servants, employees, alter-egos, co-conspirators, joint-venturers,
5 partners, successors in interest and predecessors in interest of each of the other Defendants.

6 14. At all times herein mentioned, Defendants were acting within the purpose, course and scope
7 of said agency and/or employment so as to invoke vicarious liability and *respondeat superior* liability
8 among other theories of liability to hold Defendants liable and responsible for the injuries and
9 damages to Plaintiff.

10 15. At all times herein mentioned, Defendants were members of and engaged in a joint venture,
11 partnership and common enterprise, and acting within the purpose, course and scope of, and in
12 pursuit of, said joint venture, partnership and common enterprise.

13 16. At all times herein mentioned, the acts and omissions of various Defendants contributed to
14 the various acts and omissions of each and all of the other Defendants in proximately causing the
15 injuries and damages as herein alleged.

16 17. At all times herein mentioned, Defendants, including all Defendants' managing agents,
17 officers and directors, had advanced knowledge of and/or ratified each and every act or omission
18 complained throughout this complaint. At all times relevant herein, Defendants and/or their
19 managing agents, officers or directors committed and/or participated in the wrongful acts and
20 omissions complained of throughout this complaint or ratified such acts and omissions. At all times
21 herein mentioned, the Defendants aided and abetted the acts and omissions of each and all of the
22 other Defendants in proximately causing the damages as herein alleged

23 18. Plaintiff is informed and believes and thereon alleges that there exists such a unity of interest
24 and ownership between Defendants that the individuality and separateness of Defendants have
25 ceased to exist.

26 19. The business affairs of Defendants are, and at all times relevant hereto were, so mixed and
27 intermingled that the same cannot reasonably be segregated, and the same are in inextricable
28 confusion.

1 20. The recognition of the separate existence of any Defendant would not promote injustice, in
2 that it would permit that Defendant to wrongfully insulate itself from liability to Plaintiff.

3 21. Under California law, Defendants are jointly and severally liable as employers for the
4 violations alleged herein because they have each exercised sufficient control over the wages, hours,
5 working conditions, and employment status of Plaintiff and class members. Each Defendant had the
6 power to hire and fire Plaintiff and class members, supervised and controlled their work schedule
7 and/or conditions of employment, determined their rate of pay, and maintained their employment
8 records. Defendants suffered or permitted Plaintiff and class members to work and/or "engaged"
9 Plaintiff and class members so as to create a common law employment relationship. As joint
10 employers of Plaintiff and class members, Defendants are jointly and severally liable for the civil
11 penalties and all other relief available to Plaintiff and class members under the law.

12 22. Plaintiff is informed and believes, and thereon alleges, that at all relevant times, Defendants,
13 and each of them, have acted as joint employers with respect to Plaintiff and class members because
14 Defendants have:

- 15 a. jointly exercised meaningful control over the work performed by Plaintiff and class
16 members;
- 17 b. jointly exercised meaningful control over Plaintiff is informed and believes, and on that basis
18 alleges and class members' wages, hours, and working conditions, including the quantity,
19 quality standards, speed, scheduling, and operative details of the tasks performed by Plaintiff
20 is informed and believes, and on that basis alleges and class members;
- 21 c. jointly required that Plaintiff is informed and believes, and on that basis alleges and class
22 members perform work which is an integral part of Defendants' businesses; and
- 23 d. jointly exercised control over Plaintiff is informed and believes, and on that basis alleges and
24 class members as a matter of economic reality in that Plaintiff is informed and believes, and
25 on that basis alleges and class members were dependent on Defendants, who shared the power
26 to set the wages of Plaintiff is informed and believes, and on that basis alleges and class
27 members and determine their working conditions, and who jointly reaped the benefits from
28 the underpayment of their wages and noncompliance with other statutory provisions

governing their employment.

23. Plaintiff is informed and believes, and further alleges, that at all relevant times there has existed a unity of interest and ownership between Defendants such that any individuality and separateness between the entities has ceased.

24. Defendants ANDY'S PRECISION, MACHADO, and Does 1 - 100, inclusive, are therefore alter egos of each other.

25. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability for the wrongful acts committed by it.

26. Plaintiff further alleges, upon information and belief, that Defendants are alter egos of each other.

CLASS DEFINITIONS AND CLASS ALLEGATIONS

27. Plaintiff brings this action on her own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

28. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

29. Plaintiff's proposed class consists of and is defined as follows:

"All persons who work/worked for Defendants (either directly or through a staffing agency) in a non-exempt capacity in California at any time during the period from four years preceding the filing of this Complaint to final judgment."

30. Members of the Class will hereinafter be referred to as "class members."

31. Plaintiff reserves the right to redefine the Class and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

32. This action has been brought and may be properly maintained as a class action pursuant to the provisions of Code of Civil Procedure § 382 (hereinafter "§ 382") and other applicable law.

1 33. **Numerosity of the Class:** Pursuant to § 382, members of the Class are so numerous that
2 their individual joinder is impracticable. Plaintiff estimates, on information and belief, that there
3 are over one hundred (100) current and former aggrieved employees of Defendants employed in
4 California during the Class period. The precise number of Class members and their addresses are
5 unknown to Plaintiff or will be known to Plaintiff through discovery. Class members may be
6 notified of the pendency of this action by mail, electronic mail, the Internet, or published notice.

7 34. **Existence of Predominance of Common Questions of Fact and Law:** Pursuant to § 382,
8 common questions of law and fact exist as to all members of the Class. These questions predominate
9 over any questions affecting only individual Class members. These common legal and factual
10 questions include:

- 11 a. Whether Plaintiff and each member of the Class were not paid minimum wage for each hour
12 worked or part thereof during which they were required to perform acts at the direction and
13 for the benefit of Defendants;
 - 14 b. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff for the total
15 hours worked during the Class period;
 - 16 c. Whether Defendants violated Labor Code § 2267.7 and/or § 512 and engaged in a pattern or
17 practice of failing to provide timely, off-duty thirty (30) minute meal periods to Plaintiff and
18 members of the Class during the Class period;
 - 19 d. Whether Defendants engaged in a pattern or practice of impeding Plaintiff and the members
20 of the Class during the Class period from taking statutory off-duty thirty (30) minute meal
21 periods on a timely basis;
 - 22 e. Whether Defendants engaged in a pattern or practice of failing to properly compensate
23 Plaintiff and the members of the Class during the Class period for missed, untimely or on-
24 duty meal periods as required by California law;
 - 25 f. Whether Defendants violated the applicable California Industrial Welfare Commission by
26 failing to provide Plaintiff and the members of the Class with timely off-duty thirty (30)
27 minute meal periods;
- 28

- 1 g. Whether Defendants engaged in unfair practice and violated California Business and
2 Professions Code §17200 by failing to provide Plaintiff and the members of the Class who
3 worked as employees in California during the Class period with their statutory off-duty meal
4 periods on a timely basis;
- 5 h. Whether Defendants maintained accurate time records of off-duty thirty (30) minute meal
6 breaks taken by Plaintiff and members of the Class during the Class period;
- 7 i. Whether Defendants violated Labor Code § 226(a) by issuing inaccurate itemized wage
8 statements to Plaintiff and members of the Class that failed to include payments for missed,
9 untimely, and/or on-duty meal periods among wages earned throughout the Class period;
- 10 j. Whether Defendants violated Labor Code § 226 by issuing inaccurate itemized wage
11 statements to Plaintiff and members of the Class to the detriment of Plaintiff and the Class;
- 12 k. Whether Defendants failed to provide ten (10) minute, uninterrupted rest periods as
13 contemplated by California law for work periods in excess of four (4) hours or every major
14 fraction thereof;
- 15 l. Whether Defendants engaged in a pattern or practice of failing to properly compensate
16 Plaintiff and the members of the Class during the Class period for failing to provide ten (10)
17 minute, uninterrupted rest periods as contemplated by California law for work periods in
18 excess of four (4) hours;
- 19 m. Whether Defendants engaged in a pattern or practice of failing to pay appropriate amounts of
20 overtime pay to Plaintiff and the Class for hours worked in excess of eight (8) hours in a day;
- 21 n. Whether Defendants violated § 510 of the Labor Code by failing to pay overtime pay to
22 Plaintiff and the Class for hours worked in excess of eight (8) hours in a day;
- 23 o. Whether Defendants violated the applicable IWC Wage Order by failing to pay overtime to
24 Plaintiff and the Class for hours worked in excess of eight (8) hours in a day;
- 25 p. Whether Defendants violated Labor Code §§ 218.5, 204, 1197, and 1198 due to failure to
26 compensate Plaintiff and the Class for those acts Defendants required Plaintiff and member
27 of the Class to perform for the benefit of Defendants;
- 28

1 q. Whether Defendants had a policy or practice of charging employees for necessary business
2 expenditures; and

3 r. The nature and extent of class-wide injury and the measure of damages for the injury.

4 35. **Typicality:** Plaintiff's claims are typical of the claim of the members of the subclasses they
5 represent to the same unlawful business practices as other employees employed by Defendants
6 during the liability period. Plaintiff and the members of the sub classes they represent sustained the
7 same types of damages and losses. Plaintiff is qualified to, and will, fairly and adequately protect
8 the interests of each class member with whom she has a well- defined community of interest, and
9 Plaintiff's claims (or defenses, if any are typical of all class members as demonstrated herein).

10 36. **Adequacy:** Plaintiff is an adequate representative of the Class they seek to represent because
11 their interests do not conflict with the interests of the class members Plaintiff seeks to represent.
12 Plaintiff has retained counsel competent and experienced in complex class action litigation and
13 Plaintiff intends to prosecute this action vigorously. The interests of members of each Class will be
14 fairly and adequately be protected by Plaintiff and her counsel. Plaintiff is qualified to, and will,
15 fairly and adequately protect the interests of each class member with whom they have a well-defined
16 community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that
17 she has an obligation to make known to the Court any relationship, conflicts or differences with any
18 class member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing
19 class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the
20 duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will
21 be necessarily expended for the prosecution of this action for the substantial benefit of each class
22 member.

23 37. **Superiority and Substantial Benefit:** The class action is superior to other available means
24 for the fair and efficient adjudication of Plaintiff and the Class members' claims. The damages
25 suffered by each individual Class member may be limited. Damages of such magnitude are small
26 given the burden and expense of individual prosecution of the complex and extensive litigation
27 necessitated by Defendants conduct. Further, it would be virtually impossible for the Class members
28 to redress the wrongs done to them on an individual basis. Even if members of the Class members

1 themselves could afford such individual litigation, the court system could not. Individualized
2 litigation increases the delay and expense to all parties and the court system, due to the complex legal
3 and factual issues of the case. By contrast, the class action device presents far fewer management
4 difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive
5 supervision by a single court.

6 **38. Public Policy Considerations:** Public Policy considerations violate employment and labor
7 laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect
8 retaliation. Former employees are fearful of bringing actions because they believe their former
9 employers might damage their future endeavors through negative references and/or other means.
10 Class actions provide the class members who are not named in the complaint with a type of
11 anonymity that allows for the vindication of their rights while simultaneously protecting their
12 privacy.

13 **39.** The Class should also be certified because:

- 14 a. The prosecution of separate actions by individual members of the Class would create a risk
15 of inconsistent or varying adjudications with respect to individual Class members which
16 would establish incompatible standards of conduct for Defendants;
- 17 b. The prosecution of separate actions by individual members of the Class would create a risk
18 of adjudication with respect to them, which would, as a practical matter, be dispositive of the
19 interests of the other Class members not parties to the adjudications, or substantially impair
20 or impede their ability to protect their interests; and
- 21 c. Defendants have acted to refuse to act on grounds generally applicable to the Class, and/or
22 the general public, thereby making appropriate final and injunctive relief with respect to the
23 Classes as a whole.

24 **PRIVATE ATTORNEY GENERAL ACT OF 2004**

25 **(Cal. Lab. Code section 2698 *et seq.*)**

26 **40.** In 2003, California's Legislature declared that, "staffing levels for state labor law
27 enforcement agencies have, in general, declined over the last decade and are likely to fail to keep up
28 with the growth of the labor market in the future. It is therefore in the public interest to provide that

1 civil penalties for violations of the Labor Code may also be assessed and collected by aggrieved
2 employees acting as private attorneys general, while also ensuring that state labor law enforcement
3 agencies' enforcement actions have primacy over any private enforcement efforts undertaken
4 pursuant to this act." *Dunlap v. Superior Court* (2006) 142 Cal.App.4th 330, 337-338, citing Stats.
5 2003. Ch. 906 § 1.

6 41. In response, California's Legislature passed the Private Attorney General Act of 2004
7 ("PAGA"), which "was adopted to empower aggrieved employees, acting as private attorneys
8 general, to seek civil penalties for Labor Code violations, penalties which previously could be
9 assessed only by state agencies." *Dunlap v. Superior Court* (2006) 142 Cal.App.4th 330, 336. "Thus,
10 PAGA empowers or deputizes an aggrieved employee to sue for civil penalties 'on behalf of himself
11 or herself and other current or former employees' as an alternative to enforcement by the LWDA."
12 *Id.* At 337 citing to Cal. Lab. Code 2699(a). Class action requirements do not apply to representative
13 actions brought by one employee on behalf of other current or former employees under the PAGA.
14 *Arias v. Superior Court* (2009) 46 Cal. 4th 969, 984.

15 42. Prior to bringing the action, the aggrieved employee shall give written notice by certified
16 mail to the Labor and Workforce Development Agency and the employer of the specific provisions
17 of this code alleged to have been violated, including the facts and theories to support the alleged
18 violation. *Cal. Lab. Code* 2699.3 (c)(1). The agency shall notify the employer and the aggrieved
19 employee or representative by certified mail that it does not intend to investigate the alleged violation
20 within 60 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon
21 receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the
22 notice given pursuant to paragraph (1), the aggrieved employee may commence a civil action
23 pursuant to Section 2699.

24 43. The aggrieved employee is entitled to keep 25% of the civil penalties recovered in the PAGA
25 action and the remaining 75% goes to the Labor and Workforce Development Agency. *Cal. Lab.*
26 *Code* 2699(i).

27 44. On April 16, 2019, Plaintiff JORGE HERNANDEZ gave written notice by certified mail to
28 Defendants ANDY'S PRECISION and MACHADO, and filed online directly to the Labor and

1 Workforce Development Agency (“LWDA”), regarding the specific conditions of the codes alleged
2 to have been violated, including the facts and theories to support the alleged violations. Attached
3 hereto as “**Exhibit A**”, is a true and correct copy of Plaintiff’s written PAGA notice letter.

4 **GENERAL FACTS AND ALLEGATIONS**

5 45. This is an action brought by Plaintiff, and all others similarly situated, pursuant to California
6 statutory, decisional, and regulatory laws. Plaintiff was at all times relevant to this complaint,
7 employed by Defendants.

8 46. Defendant ANDY'S PRECISION is a California corporation that provides grading and
9 paving services.

10 47. Defendant MACHADO is the current Chief Executive Officer, Secretary, and Chief Financial
11 Officer of Defendant ANDY'S PRECISION.

12 48. Defendants employed Plaintiff from approximately November 2021 to approximately May
13 2022.

14 49. Plaintiff alleges that California statutory, decisional, and regulatory laws prohibit the conduct
15 by Defendants herein alleged, and therefore Plaintiff has an entitlement to monetary relief on the
16 basis that Defendants violated such statutes, decisional law, and regulations.

17 50. At all times during the liability period, Defendants employed Plaintiff and Class members as
18 in providing Defendants services.

19 51. At all times during the liability period, Defendants continued to employ non-exempt, hourly
20 paid employees throughout California.

21 52. Defendants exercised that same dominion and control over every employee that Defendants
22 employed during the class period.

23 **Wage and Hour Allegations:**

24 53. Plaintiff alleges that Defendants frequently required Plaintiffs and other similarly situated
25 class members to work more than eight (8) hours per day and more than forty (40) hours per week
26 during the time of her employment. Specifically, Defendants required Plaintiff and class members to
27 work ten hour shifts from Monday through Friday and work an additional eight-hour shift on
28 Saturdays. However, Defendants regularly paid Plaintiff and class members forty hours of regular

1 time through payroll checks, and paid the additional eighteen hours via cash at the regular (not
2 overtime) rate.

3 54. Defendants unfairly rounded Plaintiff and class members' time to Defendants' benefit and
4 workers' detriment.

5 55. Defendants required Plaintiff and class members to utilize their personal cell phones for work
6 reasons, but failed to reimburse Plaintiff and class members for those costs.

7 56. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have
8 known that Plaintiff and class members were entitled to receive certain wages for overtime
9 compensation and that they were not receiving certain wages for overtime compensation.

10 57. Plaintiff further alleges that during the time of Plaintiffs employment, Defendants acted
11 negligently, recklessly, and/or intentionally to routinely deprive Plaintiffs and other similarly situated
12 Class members of statutorily mandated rest breaks during work shifts of four (4) hours or greater,
13 and routinely required Plaintiffs to work more than five (5) hours without giving Plaintiffs at least a
14 thirty (30) minute meal break. Defendants also intentionally failed to compensate Plaintiffs and other
15 similarly situated Class members for those missed rest breaks and meal breaks over the entire period
16 of Plaintiffs employment with Defendants.

17 58. Plaintiff does not contend that they were always refused their meal breaks. Instead, many of
18 Plaintiff and class member's meal breaks were on call, meaning that they were unable to be
19 completely be relieved of all duty during their meal breaks. Customers and the Employer were the
20 first priority; even above Plaintiff's statutorily available mandated meal breaks. As such, many of
21 their meal breaks were less than 30 minutes, sometimes less than 15 minutes. Other times, not at all.
22 Often times Plaintiff and other similarly situated Class members would either skip their meal breaks,
23 take them at the wrong time, or get interrupted depending on how busy it was.

24 59. Plaintiff is informed, believe and thereon allege that many times, Plaintiffs and other similarly
25 situated Class members were required to work over 10 hours, thereby triggering a second meal break.
26 Similarly, many of their second meal breaks were less than 30 minutes, sometimes less than 15
27 minutes. Other times, not at all.

28 60. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have

1 known that Plaintiff and class members were entitled to rest periods in accordance with the Labor
2 Code and applicable Industrial Welfare Commission ("IWC") Wage Order or payment of one (1)
3 additional hour of pay at their regular rates of pay when they were not provided with a compliant
4 rest period and that Plaintiff and class members were not provided compliant rest periods or payment
5 of one (1) additional hour of pay at their regular rates of pay when they were not provided a compliant
6 rest period.

7 61. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have
8 known that Plaintiff and class members were entitled to receive complete and accurate wage
9 statements in accordance with California law. In violation of the California Labor Code, Plaintiff and
10 class members were not provided complete and accurate wage statements.

11 62. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have
12 known that they had a duty to maintain accurate and complete payroll records, including hours
13 worked, in accordance with the Labor Code and applicable IWC Wage Order, but willfully,
14 knowingly, and intentionally failed to do so.

15 63. Plaintiff is informed, believe and thereon allege that Defendants, and each of them, violated
16 other provisions of the laws of the State of California, including Employment Laws and Regulations
17 which provide for a civil penalty to be assessed and collected by the California Labor and Workforce
18 Development Agency or its various departments, divisions, commissions, boards, agencies, or
19 employees.

20 64. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have
21 known that Plaintiff and class members were entitled to timely payment of all wages earned upon
22 termination of employment. In violation of the California Labor Code, Plaintiff and class members
23 did not receive payment of all wages due, including, but not limited to, overtime wages, minimum
24 wages, and meal and rest period premiums, within permissible time periods.

25 65. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have
26 known that Plaintiff and class members were entitled to timely payment of wages during their
27 employment. In violation of the California Labor Code, Plaintiff and class members did not receive
28 payment of all wages, including, but not limited to, overtime wages, minimum wages, and meal and

1 rest period premiums, within permissible time periods.

2 66. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned,
3 Defendants knew or should have known that they had a duty to provide Plaintiff and class members
4 with written notice of the material terms of their employment with Defendants as required by the
5 California Wage Theft Prevention Act, but willfully, knowingly, and intentionally failed to do so.

6 67. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned,
7 Defendants knew or should have known that they had a duty to compensate Plaintiff and class
8 members for all hours worked, and that Defendants had the financial ability to pay such
9 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to
10 Plaintiff and class members that they were properly denied wages, all in order to increase Defendants'
11 profits.

12 68. In addition to any other remedies which may be available at law or equity, or as may
13 otherwise asserted herein, Plaintiff seeks payment of overtime wages and other compensation owed
14 to them and other similarly situated Class members, plus all benefits required pursuant to the laws
15 of the State of California, including Employment Laws and Regulations, based on the sums withheld
16 from Plaintiff and other similarly situated Class members. Plaintiff and other similarly situated Class
17 members also seek recovery of penalties, attorney's fees, and costs as provided by statute.

18 69. Plaintiff and other similarly situated Class members seek restitution and disgorgement of all
19 sums wrongfully obtained by Defendants through their unfair business practices in violation of
20 California Business & Professions Code Section 17200 et seq., to prevent Defendants from
21 benefitting from their ongoing unfair practices, and which sums recovered under the Unfair
22 Competition Act and Unfair Businesses Act are equitable in nature and are not to be considered
23 damages. Plaintiff and other similarly situated Class members are also entitled to costs, attorney's
24 fees, interest and penalties as provided for by the California Labor Code and California Business &
25 Professions Code, and the Private Attorney General Act under California Code of Civil Procedure
26 1021.5.

27 70. WHEREFORE, Plaintiff and other similarly situated Class members request relief as
28 hereinafter provided.

1 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS**

2 **Failure to Pay Minimum Wage**

3 **(Class Claim Against All Defendants; Cal. Lab. Code §§ 1182.12, 1194, 1197 & 1198, *et seq.*)**

4 71. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as
5 though fully set forth herein.

6 72. Pursuant to Labor Code §§ 1194, 1194.2, and 1197, it is unlawful for an employer to suffer
7 or permit a California employee to work without paying wages at the proper minimum wage for all
8 time worked.

9 73. At all times material hereto, “hours worked” included “the time during which an employee
10 is subject to the control of an employer, and includes all the time the employee is suffered or
11 permitted to work, whether or not required to do so.”

12 74. As a direct and proximate result of Defendants' failure to pay Plaintiff and the Plaintiff Class
13 the minimum wage, Plaintiff and the Plaintiff Class have been damaged in the amount of unpaid
14 minimum wages. Pursuant to Labor Code §§ 1194 and 1194.2, Plaintiff and the Plaintiff Class are
15 entitled to recover the full amount of unpaid minimum wages, liquidated damages in an equal
16 amount, interest and attorney's fees, all in a total amount subject to proof at time of trial. In addition,
17 insofar as the failure of Defendants to pay the minimum wage was willful, Plaintiff and the Plaintiff
18 Class who no longer work for Defendants are entitled to waiting time penalties pursuant to Labor
19 Code § 200 *et seq.*

20 75. The aforementioned acts by Defendants were intentional, with the intention on the part of the
21 Defendants to deprive Plaintiff and the Plaintiff Class of their property and/or legal rights and causing
22 injury to them. As a result of Defendants failure to compensate Plaintiff at the minimum wage,
23 pursuant to Labor Code § 1197.1, Plaintiff is entitled to civil penalties from Defendants of \$50 for
24 each underpaid employee for each pay period for which the employee is underpaid, for the initial
25 violation; and \$100 for each underpaid employee for each pay period for which the employee is
26 underpaid, for each subsequent violation.

27 76. WHEREFORE, Plaintiff and the Plaintiff Class request relief as hereinafter provided.

28 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS**

1 **Failure to Pay Overtime Compensation**

2 **(Class Claim Against All Defendants; Cal. Lab. Code §§ 1198 & 510, *et seq.*)**

3 77. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as
4 though fully set forth herein.

5 78. Pursuant to Industrial Welfare Commission Order 9-2001, and Labor Code §§ 200, 226, and
6 1198, at all times relevant hereto, Defendants were required to compensate Plaintiff for all overtime,
7 which is calculated at one and one-half (1½) times the regular rate of pay for hours worked in excess
8 of eight (8) hours per day and/or forty (40) hours per week.

9 79. Pursuant to Industrial Welfare Commission Order 9-2001, and Labor Code §§ 200, 226, and
10 1198, as of January 1, 1998, Defendants were required to compensate Plaintiff for all overtime, which
11 is calculated as one and one-half (1½) times the regular rate of pay for hours worked in excess of
12 forty (40) hours per week, and after the first eight (8) hours on the seventh consecutive work day.

13 80. Pursuant to Labor Code §§ 200, 226, 500, 510, and 1198, Defendants were required to
14 compensate Plaintiff for all overtime, which is calculated at one and one-half (1½) times the regular
15 rate of pay for hours worked in excess of eight (8) hours per day.

16 81. Plaintiff and the Plaintiff Class were non-exempt employees entitled to the protections of
17 California Labor Code §§ 200, 226, 500, 510, and 1198. During the course of Plaintiff and the
18 Plaintiff Class' employment, Defendants failed to properly compensate them for overtime hours
19 worked as required under the aforementioned Labor Code sections.

20 82. Plaintiff and the Plaintiff Class are entitled to one and one half (1 1/2) times and /or double
21 their regular rate of pay for overtime work performed during the four (4) years preceding the filing of
22 this Complaint based on appropriate calculations of the total remuneration for each workweek.

23 83. In violation of state law, Defendants have knowingly and willfully refused to perform their
24 obligations to compensate Plaintiff and the Plaintiff Class for all wages earned and all hours worked.

25 84. As a direct result of aforementioned violations, Plaintiff and the Plaintiff Class have suffered,
26 and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest
27 on such wages, and expenses and attorney's fees in seeking to compel Defendants to fully perform
28 their obligation under state law, all to their respective damage in amounts according to proof at time

1 of trial, but in amounts in excess of the jurisdiction of this Court.

2 85. Defendants' conduct described herein violates Labor Code §§ 200, 226, 500, 510 and 1198.
3 Therefore, pursuant to Labor Code § 200, 203, 218.5, 226, 558, and 1194, Plaintiff and the Plaintiff
4 Class are entitled to recover the unpaid balance of overtime compensation Defendants owe Plaintiff
5 and the Plaintiff Class civil penalties (including the penalties described in Labor Code § 558 and
6 other statutory penalties) plus interest penalties, attorney's fees, expenses, and costs of suit.

7 86. WHEREFORE, Plaintiff and the Plaintiff Class request relief as hereinafter provided.

8 **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS**

9 **Failure to Provide Meal Periods**

10 **(Class Claim Against All Defendants; Cal. Lab. Code §§ 226.7, 512(a) & 1198 *et seq.*)**

11 87. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as
12 though fully set forth herein.

13 88. At all times herein mentioned the Plaintiff and the Plaintiff Class, were non-exempt
14 employees and subject to the meal period provisions.

15 89. Defendants failed to allow Plaintiff and the Plaintiff Class to take 30-minute meal periods for
16 every 5 hours worked. Defendants denied them such breaks. Thus, Defendants sometimes deprived
17 employees of both their lunch period and the 30 minutes pay for the time when the employees were
18 working, when they should have been allowed to take their meal breaks.

19 90. Wages are due to employees for "all hours worked" and applicable laws, rules, orders,
20 requirements, and regulations. Plaintiff and the Plaintiff Class demand all applicable reimbursement
21 and penalties for their lost meal breaks, in addition to the one-hour's compensation due under the
22 wage order. Further, Plaintiff and the Plaintiff Class demand reasonable attorney's fees and costs of
23 suit, pursuant to Labor Code § 218.5.

24 91. Under California law, meal periods must be recorded unless all operations cease during the
25 scheduled meal periods. Defendants failed to record the meal periods. Plaintiff and the Plaintiff
26 Class are not only entitled to compensation for the lost meal periods, but to the extent that Defendants
27 claim that meal periods were taken which are not documented, Plaintiff and the Plaintiff Class also
28 seek all applicable penalties for Defendants' failure to keep accurate time records and to issue

1 Plaintiff and the Plaintiff Class accurate earnings statements.

2 92. WHEREFORE, Plaintiff and the Plaintiff Class request relief as hereinafter provided.

3 **FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

4 **Failure to Provide Rest Periods**

5 **(Class Claim Against All Defendants; Cal. Lab. Code §§ 226.7 & 1198 *et seq.*)**

6 93. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as
7 though fully set forth herein.

8 94. Defendants failed to allow Plaintiff and the Plaintiff Class to take rest periods during every
9 four-hour period worked. The law requires that non-exempt employees be allowed a 10-minute
10 break during every four-hour work period, or major fraction thereof. Defendants denied them such
11 breaks.

12 95. In addition, Plaintiff and the Plaintiff Class are entitled to recover interest on the unpaid rest
13 period wages due to them. Further, they demand reasonable attorney's fees and costs of suit, pursuant
14 to Labor Code § 218.5, plus all appropriate penalties for the wage and hour violations, in addition to
15 the one-hour's compensation as premium pay as provided for by law.

16 96. Plaintiff and the Plaintiff Class are not only entitled to compensation for the lost rest periods,
17 but to the extent that Defendants claim that rest periods were taken which are not documented, they
18 also seek all applicable penalties for Defendants failure to keep accurate time records and to issue
19 them accurate earnings statements.

20 97. WHEREFORE, Plaintiff and the Plaintiff Class request relief as hereinafter provided.

21 **FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

22 **Failure to Furnish Accurate Wage and Hour Statements**

23 **(Class Claim Against All Defendants; Cal. Lab. Code § 226)**

24 98. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as
25 though fully set forth herein.

26 99. At all relevant times herein, California Labor Code section 226(a) provides that every
27 employer shall furnish each of her or her employees an accurate and complete itemized wage
28 statement in writing, including, but not limited to, the name and address of the legal entity that is the

1 employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

2 100. During the relevant time period, Defendants have knowingly and intentionally provided
3 Plaintiff and class members with uniform, incomplete, and inaccurate wage statements. Specifically,
4 Defendants violated sections 226(a)(1), 226(a)(5), 226(a)(8), and 226(a)(9). Because Plaintiff and
5 class members were forced to work during all or part of their meal periods or off-the-clock after their
6 scheduled shifts had ended, and because Defendants did not calculate Plaintiff and class members'
7 regular rate of pay correctly for purposes of paying overtime, Defendants did not list the correct
8 amount of gross wages earned by Plaintiff and class members in compliance with section 226(a)(1).
9 For the same reasons, Defendants failed to list the correct amount of net wages earned by Plaintiff
10 and class members in violation of section 226(a)(5). [L]
[SEP]

11 101. Defendants also failed to correctly list all applicable hourly rates in effect during the pay
12 period, namely, correct overtime rates of pay and correct rates of pay for premium wages, as a result
13 of miscalculating the regular rate of pay, in violation of section 226(a)(9). [L]
[SEP]

14 102. The wage statement deficiencies also include, among other things, failing to list total hours
15 worked by employees; failing to list the number of piece-rate units earned and any applicable piece
16 rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the
17 inclusive dates of the period for which employees were paid; failing to list the name of the employee
18 and only the last four digits of her or her social security number or an employee identification number
19 other than a social security number; failing to list the correct name of the legal entity that is the
20 employer; and/or failing to state all hours worked.

21 103. By causing Plaintiff and the Plaintiff Class to work without compensation, Defendants have
22 violated the requirement that the total hours worked and all wages earned is included in the wage
23 statement that must be provided to Plaintiffs.

24 104. Plaintiff and the Plaintiff Class were damaged by these failures because, among other things,
25 these failures led her to believe that they were not entitled to be paid overtime, even though she was
26 so entitled and because these failures hindered her from determining the amounts of overtime wages
27 owed to him.

1 105. By virtue of Defendants knowing, intentional, and unlawful failure to provide accurate wage
2 statements, Plaintiff and the Plaintiff Class has suffered, and will continue to suffer, damages in
3 amounts, which will be ascertained according to proof at trial.

4 106. Plaintiff and class members are entitled to recover from Defendants the greater of their actual
5 damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an
6 aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

7 107. WHEREFORE, Plaintiff and the Plaintiff Class request relief as hereinafter provided.

8 **SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

9 **Failure to Pay Wages Upon Discharge**

10 **(Class Claim Against All Defendants; Cal. Lab. Code §§ 201 & 202, *et seq.*)**

11 108. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as
12 though fully set forth herein.

13 109. Pursuant to California Labor Code § 201, upon former employee Plaintiff's termination date,
14 Defendants were required to pay Plaintiff and the Plaintiff Class all earned wages. At the time of
15 former employee Plaintiff's termination date, former employees, Plaintiff and the Plaintiff Class, had
16 unpaid wages. In violations of Labor Code § 201, Defendants failed to pay former employees,
17 Plaintiff and the Plaintiff Class, any amount of wages due and owing them, in amounts to be proven
18 at the time of trial, but not in excess of the jurisdiction of this Court.

19 110. Defendants' failure to pay former employees, Plaintiff and the Plaintiff Class, the wages due
20 and owing them was willful, and done with the wrongful and deliberate intention of injuring Plaintiff
21 and the Plaintiff Class, from improper motives amounting to malice, and in conscious disregard of
22 Plaintiff's rights. Plaintiff and the Plaintiff Class are thus entitled to recover nominal, actual,
23 compensatory, and liquidated damages in amounts according to proof at time of trial, but not in
24 amounts in excess of the jurisdiction of this Court.

25 111. Defendants willful failure to pay Plaintiff and the Plaintiff Class the wages due and owing
26 them constitutes violations of Labor Code §§ 201 and 203, which provides that an employee's wages
27 will continue as a penalty for up to thirty (30) days from the time the wages were due. Therefore,
28 Plaintiff and the Plaintiff Class are entitled to statutory penalties pursuant to Labor Code § 203.

1 112. WHEREFORE, Plaintiff and the Plaintiff Class request relief as hereinafter provided.

2 **SEVENTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

3 **Failure to Reimburse Business Expenses**

4 **(Violation of California Labor Code § 2802 *et seq.*)**

5 113. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

6 114. Labor *Code* § 2802 (a) provides:

7
8 An employer shall indemnify his or her employee for all necessary expenditures or
9 losses incurred by the employee in direct consequence of the discharge of his or her
10 duties, or of his or her obedience to the directions of the employer, event though
unlawful, unless the employee, at the time of obeying the directions, believed them
to be unlawful.

11 115. Defendants did not reimburse the class for necessary expenditures such as cell phones.

12 116. As a direct and proximate result of Defendants' failure to reimburse Plaintiff and
13 Plaintiff Class, they have been injured in an amount to be proven at trial.

14 117. Plaintiff and Plaintiff Class are, therefore, entitled to recover reimbursement for these
15 necessary expenditures, and to recover their costs, interests, attorneys' fees, and penalties
permitted under California law.

16 118. WHEREFORE, Plaintiff and Plaintiff Class request relief as hereafter provided.

17 **EIGHTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

18 **Unfair Competition**

19 **(Class Claim Against All Defendants; Violation of California Business & Professions Code §§**

20 **17200 *et seq.*)**

21 119. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as
22 though fully set forth herein.

23 120. Defendants are a "person" as defined by California Business & Professions Code sections
24 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

25 121. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, and harmful to
26 Plaintiff, class members, and to the general public. Plaintiff has suffered injury in fact and has lost
27 money as a result of Defendants' unfair business practices. Plaintiff seeks to enforce important rights
28

1 affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

2 122. Defendants' activities, namely Defendants' company-wide practice and/or policy of not
3 paying Plaintiff and class members all meal and rest period premium wages due to them under Labor
4 Code section 226.7, deprived Plaintiff and class members of the compensation guarantee and
5 enhanced enforcement implemented by section 226.7. The statutory remedy provided by section
6 226.7 is a "'dual-purpose' remedy intended primarily to compensate employees, and secondarily to
7 shape employer conduct. *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The
8 statutory benefits of section 226.7 were guaranteed to Plaintiff and class members as part of their
9 employment with Defendants, and thus Defendants' practice and/or policy of denying these statutory
10 benefits constitutes an unfair business practice in violation of California Business & Professions
11 Code sections 17200, *et seq.* (*Id.*) [SEP]

12 123. A violation of California Business & Professions Code sections 17200, *et seq.* may be
13 predicated on any unfair business practice. In the instant case, Defendants' policies and practices
14 have violated the spirit of California's meal and rest break laws and constitute acts against the public
15 policy behind these laws. [SEP]

16 124. Pursuant to California Business & Professions Code sections 17200 *et seq.*, Plaintiff and class
17 members are entitled to restitution for the class-wide loss of the statutory benefits implemented by
18 section 226.7 withheld and retained by Defendants during a period that commences four years prior
19 to the filing of this complaint; a permanent injunction requiring Defendants to pay all statutory
20 benefits implemented by section 226.7 due to Plaintiff and class members; an award of attorneys'
21 fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and
22 an award of costs.

23 125. WHEREFORE, Plaintiff and the Plaintiff Class request relief as hereinafter provided.

24 **NINTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

25 **(Violation of the Private Attorneys General Act of 2004,**

26 **California Labor Code § 2698 *et seq.*)**

27 126. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as
28 though fully set forth herein.

1 127. Plaintiff seeks civil penalties for the above acts, which violate the California Labor Code,
2 under the Private Attorneys General Act (“PAGA”), Cal. Labor Code § 2698 *et seq.*

3 128. Plaintiff is “aggrieved employees” under PAGA, as he was employed by Defendant during
4 the applicable statutory period and suffered one or more of the Labor Code violations set forth herein.
5 Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and former aggrieved
6 employees of Defendants, the civil penalties provided by PAGA, plus reasonable attorney’s fees and
7 costs.

8 129. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted
9 by PAGA and the *California Supreme Court in Arias v. Superior Court*, (2009) 46 Cal.4th 969.
10 Therefore, class certification of the PAGA claims is not required.

11 130. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor Code
12 provisions:

- 13 a. failure to provide prompt payment of wages to employees upon termination and
14 resignation in violation of Labor Code § 201, 202, 203;
- 15 b. failure to provide itemized wage statements to employees in violation of Labor Code §§
16 226(a), 1174, and 1174.5;
- 17 c. failure to provide meal and rest periods in violation of all applicable IWC wage orders
18 and Labor Code §§ 1174 and 1174.5;
- 19 d. failure to pay overtime wages in violation of all applicable IWC wage orders and Labor
20 Code §§ 510, 558, 1194 and 1198;
- 21 e. failure to provide unpaid balance of full amount of overtime compensation in violation
22 of Labor Code section 1194 and 2698 *et seq.*;
- 23 f. failure to pay minimum wage in violation of all applicable IWC wage orders and Labor
24 Code §§ 1182.12, 1194, and 1197;
- 25 g. Violation of Labor Code section 1199 (a) and (c) and 2699.5 *et seq.*; and
- 26 h. Violations of California Labor Code sections 201; 202; 203; 204; 206; 216; 218.6; 221;
27 226 *et seq.*; 226.8; 432.5; 450; 226.7; 512; 1174; 1174.5; 2802; and all applicable IWC
28 wage orders.

1 131. On June 9, 2022, Plaintiff JORGE HERNANDEZ gave written notice by certified mail to
2 Defendants ANDY'S PRECISION and MACHADO, and filed online directly to the Labor and
3 Workforce Development Agency ("LWDA"), regarding the specific conditions of the codes alleged
4 to have been violated, including the facts and theories to support the alleged violations. Attached
5 hereto as "**Exhibit A**", is a true and correct copy of Plaintiff's written PAGA notice letter.

6 132. The LWDA did not provide notice of its intention to investigate Defendant's alleged
7 violations within sixty-five (65) calendar days of the April 166666, 2019 postmark date of the notice
8 sent by Plaintiff. *See* Cal. Labor Code section 2699.3(a)(2)(A).

9 133. With respect to violations of Labor Code section 226(a), Labor Code section 226.3 imposes
10 a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250)
11 per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
12 employee for each subsequent violation of Labor Code section 226(a).

13 134. With respect to violations of Labor Code sections 510, 512, Labor Code section 558 imposes
14 a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial
15 violations for each unpaid employee for each pay period for which the employee was underpaid in
16 addition to an amount sufficient to recover underpaid wages, and one hundred dollars (\$100) for
17 subsequent violations for each underpaid employee for each pay period for which the employee was
18 underpaid in addition to an amount sufficient to recover underpaid wages.

19 135. Moreover, Plaintiff seeks civil penalties in the amount of unpaid wages owed to aggrieved
20 employees pursuant to Labor Code section 558(a)(3).

21 136. With respect to violations of Labor Code section 1174, Labor Code section 1174.5 imposes
22 a civil penalty of \$500.

23 137. Labor Code section 2699 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per
24 pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) pay period,
25 per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil
26 penalty is not specifically provided, including Labor Code sections 226.7, 226.8, 1174, 1182.12,
27 1194, 1197, 1198, and 2802.

28 138. WHEREFORE, Plaintiff requests relief as hereafter provided.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for relief and judgment against Defendants as follows:

1. Certification of this action as a class action on behalf of each of the classes alleged in this complaint;
2. For general damages, according to proof, on each cause of action for which such damages are available;
3. For compensatory damages, according to proof, on each cause of action for which such damages are available;
4. For punitive damages, according to proof, on each cause of action for which such damages are available;
5. For restoration and restitution of lost wages, statutory penalties, and all other remedies afforded under the Labor Code on all causes of action for violation of the Labor Code;
6. For declaratory and injunctive relief as requested herein;
7. For prejudgment and post-judgment interest according to law;
8. For reasonable attorneys' fees incurred in this action on those causes of action for which such fees are recoverable under the law;
9. For costs of suit incurred in this action; and
10. Disgorgement of all gains unjustly gained by Defendants; and
11. For such further relief as is appropriate in the interest of justice.

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Respectfully Submitted,

SROURIAN LAW FIRM, PC



By: _____
Daniel Srourian, Esq.
Attorney for Plaintiff

DATED: August 26, 2022

DEMAND FOR JURY TRIAL

Plaintiff and the Plaintiff Class hereby demand that this matter be tried before a jury under California Code of Civil Procedure Section 631.

Respectfully Submitted,

SROURIAN LAW FIRM, PC



By: _____
Daniel Srourian, Esq.
Attorney for Plaintiff

DATED: August 26, 2022

EXHIBIT A



WWW.SLFLA.COM
P: 213.474.3800
F: 213.471.4160

LOS ANGELES
3435 Wilshire Blvd. Suite 1710
Los Angeles, CA 90010

ORANGE COUNTY
1503 South Coast Drive, Suite 210
Costa Mesa, California 92626

June 9, 2022

Via U.S. Certified Mail

ANDY'S PRECISION SEAL & STRIPE, INC.
29394 MADEIRA LANE
VALENCIA, CA 91354

ANDREW L MACHADO
29394 MADEIRA LANE
VALENCIA, CA 91354

Filed online at <http://www.dir.ca.gov/>
Labor and Workforce Development Agency
Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

Re: JORGE HERNANDEZ'S Notice of Labor Code Violations Pursuant to California Labor Code Section 2699 Et. Seq.

Dear Sir or Madam:

Please be advised that **JORGE HERNANDEZ** (hereinafter "Plaintiff") has retained Srourian Law Firm, P.C. to represent him and other aggrieved employees for claims against ANDY'S PRECISION SEAL & STRIPE, INC. and ANDREW L MACHADO (collectively referred to as "Employers" or "You" and/or referred to with "Your" and "Yours"). You are hereby on notice that Plaintiff seeks all available relief. The following contains the facts and theories supporting Plaintiff's allegations.

Pursuant to the procedures specified in California Labor Code Section 2699.3, Plaintiff claims that You have violated, and/or caused to be violated, several Labor Code provisions, and is therefore liable for civil penalties under California Labor Code 2698 et sq. You deprived Plaintiff and other aggrieved employees of certain protections of the Industrial Welfare Commission Orders, including overtime pay, double time pay, and minimum wage pay. You further failed to provide and/or authorize legally compliant meal and rest periods, failed to reimburse employees for necessary business expenses, failed to timely pay employees their final wages, and failed to provide and maintain accurate paystubs and pay records for employees.

Plaintiff was employed by You in California from approximately November 2021 until May 2022 as a non-exempt Laborer. Plaintiff worked for You on a full-time basis, and regularly followed or was subjected to company policies that deprived him of wages, breaks, and premiums, as further outlined in this letter. During Plaintiff's employment with You, Andrew Machado served as the Chief Executive Officer and was responsible for the wage and hour policies/practices and working conditions of Plaintiff and other aggrieved employees.

Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods

You failed to maintain a policy that provides Plaintiff and other aggrieved employees with off-duty meal periods as required by California law. Plaintiff and similarly situated employees regularly worked in excess of five (5) hours a day without being provided at least half-hour meal periods in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512, and applicable Wage Orders. You failed to pay Plaintiff and other aggrieved employees the premium compensation mandated by Labor Code § 226.7(b) for these missed meal periods. Some employees were also due a second meal break as they worked in excess of ten (10) hours. They would be required to work through or remain on duty/on premises during their meal breaks, or take short meal breaks, and no premium compensation was provided. You prohibited Plaintiff and the other aggrieved employees from leaving the work premises in order to take their meal periods. Moreover, You failed to provide timely meal periods to Plaintiff and the other aggrieved employees in that You did not provide first meal periods by the end of the fifth hour of work, and second meal periods by the end of the tenth hour of work. Furthermore, You would often times automatically deduct time from Plaintiff's and the other aggrieved employees' times as a meal break, even though no meal break was actually taken. Furthermore, you failed to provide shift relief to aggrieved employees so they could take an off-duty meal break. As a result of violations of California Labor Code §§ 226.7 and 512 and applicable Wage Orders, You are liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods

You failed to maintain a policy that provides Plaintiff and other aggrieved employees with off-duty rest periods as required by California law. Plaintiff and other aggrieved employees regularly worked in excess of 3.5 hours or major fraction thereof during their workdays without being provided at least a ten-minute rest period in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512 and Orders 7-2001 and 17-2001. You failed to pay Plaintiff and other aggrieved employees the premium compensation mandated by Labor Code § 226.7(b) for these missed rest periods. Many aggrieved employees, including Plaintiff, were forced to skip or take untimely rest breaks without appropriate compensation. Moreover, You prohibited Plaintiff and the other aggrieved employees from leaving the work premises in order to take their rest breaks. Furthermore, you failed to provide shift relief to aggrieved employees so they could take an off-duty rest break. As a result of violations of California Labor Code §§ 226.7, 512 and applicable Wage Orders, You are liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Furnish Wage Statements

You violated California Labor Code § 226(a) by willfully failing to furnish Plaintiff and other aggrieved employees with required full and complete wage statement information by paying employees in part or in full in cash without proper corresponding wage statements. As a result of violations of California Labor Code § 226(a), You are liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

Plaintiff and other aggrieved employees were deprived of wage statements altogether, or various necessary items of information such as total hours worked, applicable hourly rates, deductions, net wages, period dates, and the employers' address. Moreover, Plaintiff's and the other aggrieved employees' work hours, overtime time hours and pay, missed rest or meal break premiums, wages, without limitation, were misreported on their wage statements. As a result of violations of California Labor Code § 226(a), You are liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Unlawful Failure to Keep Accurate Payroll Records of Daily Hours Worked

You failed to keep payroll records showing total hours worked and wages paid to Plaintiff and the other aggrieved employees by paying them in part or in full in cash without proper corresponding wage statements. Under California Labor Code § 1174(d), employers must keep "payroll records showing the hours worked daily by and the wages paid to ... employees ." Because You did not keep accurate time records reflecting hours worked by Plaintiff and the other aggrieved employees, including but not limited to beginning work prior to opening, and after closing, You are liable for civil penalties pursuant to California Labor Code §2698 *et seq.*

To the extent that Your failure to keep accurate payroll records was willful, You are liable for civil penalties under California Labor Code § 1174.5.

Unlawful Failure to Pay Minimum Wage

You failed to maintain a policy that compensates Plaintiff and the other aggrieved employees in an amount equal to or greater than the minimum wage for all hours worked, as required by California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission applicable Wage Orders. Plaintiff and the other aggrieved employees were required to perform certain tasks off-the-clock before or after shifts. Plaintiff and the other aggrieved employees were further denied minimum wages as a result of Your unlawful policy of rounding time as well as treating portions of time worked as unpaid meal break time despite employees not getting a meal break. As a result of violations of California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission applicable Wage Orders for failure to pay minimum wage, You are liable for civil penalties pursuant to California Labor Code §§ 558, 1197.1, and 2698 et seq.

Violation of California Labor Code § 1199

Under California Labor Code §§ 1199(a) and (c) and 2699.5 et seq., an employer who "requires or causes any employee to work for longer hours than those fixed" or "violates or refuses or neglects to comply with any provision of the Labor Code regarding employees' wages, hours, and working conditions, is subject to PAGA penalties. As described above, You required Plaintiff and other aggrieved employees to work hours in excess of eight (8) in a day and forty (40) in a week (thereby violating § 1199(a)), failed to provide adequate rest and meal breaks, failed to pay minimum wage, failed to appropriately account for and pay for piece rate pay in calculating the regular rate, and have violated numerous other provisions of the Labor Code pertaining to employee wages and hours (thereby violating § 1199(b)). Accordingly, You are liable for civil penalties pursuant to California Labor Code § 2698 et seq.

Unlawful Failure to Pay Overtime/Double Time

You failed to maintain a policy that compensates Plaintiff and the other aggrieved employees for all hours worked at the proper rate, including overtime and double time. Specifically, Plaintiff and the other aggrieved employees worked shifts of longer than eight hours without being paid overtime or double time at the proper rate in accordance with California law. Specifically, You denied overtime and double time wages to Plaintiff and the other aggrieved employees as a result of Your unlawful policy of rounding time. You further denied overtime and double time wages as a result of calculating an unlawful overtime/double time rate by leaving out earned non-discretionary bonuses/contest winnings from the rate calculation. As a result of violations of California Labor Code §§ 510, 1194, and Industrial Welfare Commission applicable Wage Orders for failure to pay overtime, You are liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 et seq.

Unlawful Failure to Pay Wages Due Upon Termination

You violated California Labor Code § § 201 and 202 by willfully failing to pay all compensation due and owing to Plaintiff and other aggrieved employees at the time employment was ceased. You willfully failed to pay Plaintiff and other aggrieved employees who are no longer employed by You all compensation due upon termination of employment as required under California Labor Code §§ 201 and 202. Plaintiff's and other aggrieved employees' overtime/double time work were deliberately ignored, and payment avoided by You. Pursuant to §§ 203 and 256 of the Labor Code, Plaintiff and the other aggrieved employees are now also entitled to recover up to thirty (30) days of wages due to Your "willful" failure to comply with the statutory requirements of sections 201 and 202 of the Labor Code. Additionally, because You violated California Labor Code §§ 201, 201 and 203 of the Labor Code, You are liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Provide Unpaid Balance of Full Amount of Overtime Compensation

As described above, You required Plaintiff and the other aggrieved employees to work hours in excess of eight hours in a day and forty in a week but have not paid these employees overtime compensation. As a result, Plaintiff and other aggrieved employees have been denied "the unpaid balance of the full amount of this ... overtime compensation" as required by California Labor Code § 1194, and You are liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Reimburse Expenses

You failed to indemnify Plaintiff and other aggrieved employees for all necessary expenditures or losses incurred by Plaintiff. You did not reimburse Plaintiff and other aggrieved employees for various work-related expenses, including but not limited to cellular phones. California Labor Code § 2802 requires employers to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties. As a result of violations of California Labor Code § 2802, You are liable for civil penalties pursuant to California Labor Code §§ 558, 2802 and 2698 *et seq.*

Violation of Labor Code § 204

California Labor Code § 204 states:

All wages earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

By failing to pay Plaintiff and the other aggrieved employees all minimum wages, overtime wages, double time wages, and break premiums, You violated Labor Code § 204, and are liable for penalties as such.

Violation of Labor Code § 216

California Labor Code § 216 states:

In addition to any other penalty imposed by this article, any person, or an agent, manager, superintendent, or officer thereof is guilty of a misdemeanor, who:

(a) Having the ability to pay, willfully refuses to pay wages due and payable after demand has been made.

(b) Falsely denies the amount or validity thereof, or that the same is due, with intent to secure for himself, his employer or other person, any discount upon such indebtedness, or with intent to annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is due.

By failing to pay Plaintiff and the other aggrieved employees all minimum wages, overtime wages, double time wages, and break premiums You violated Labor Code § 216, and are liable for penalties as such.

Conclusion

You violated or caused to be violated a number of California wage and hour laws. Plaintiff therefore intends to file civil claims for the aforementioned violations of the Labor Code and other law. Plaintiff requests the agency review this notice per PAGA's provisions.

Sincerely,
SROURIAN LAW FIRM

A handwritten signature in black ink, appearing to read 'Daniel Srourian', with a stylized flourish at the end.

Daniel Srourian, Esq.



Daniel Srourian <daniel@slfla.com>

Thank you for submission of your PAGA Case.

1 message

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "daniel@slfla.com" <daniel@slfla.com>

Thu, Jun 9, 2022 at 12:51 PM

6/9/2022

LWDA Case No. LWDA-CM-888349-22
Law Firm : SROURIAN LAW FIRM, P.C.
Plaintiff Name : JORGE HERNANDEZ
Employer: ANDY'S PRECISION SEAL & STRIPE, INC.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm