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Representative MIGUEL ZAMBRANO individually

and on behalf of all those similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE – SPRING STREET COURTHOUSE
[CLASS ACTION]**

MIGUEL ZAMBRANO individually, and
on behalf of all others similarly situated;

Plaintiff,

vs.

SALDANA LANDSCAPE, INC., a
California Corporation; ROBERTO
SALDANA, an individual; DOES 1
through 25, inclusive,

Defendants

CASE NO.: **22STCV21914**

JUDGE:

DEPT.:

CLASS ACTION COMPLAINT FOR:

- 1. FAILURE TO PAY ALL EARNED WAGES**
- 2. FAILURE TO PAY ALL EARNED OVERTIME WAGES**
- 3. FAILURE TO PERMIT PAID 10 MINUTE REST PERIODS**
- 4. FAILURE TO PROVIDE 30 MINUTE MEAL PERIODS**
- 5. FAILURE TO TIMELY PAY ALL EARNED WAGES AND COMPENSATION**
- 6. FAILURE TO PAY ALL EARNED WAGES AND COMPENSATION UPON TERMINATION**
- 7. FAILURE TO PROVIDE LAWFUL WAGE STATEMENTS**
- 8. VIOLATION OF CALIFORNIA WAGE THEFT PREVENTION ACT**
- 9. UNFAIR BUSINESS PRACTICES**
- 10. FAILURE TO REIMBURSE BUSINESS EXPENSES**
- 11. UNFAIR BUSINESS PRACTICES**

Plaintiff and putative Class Representative, MIGUEL ZAMBRANO (“SVACHOVA”),
individually and on behalf of all other similarly situated employees allege:

PARTIES AND JURISDICTION

1 1. Plaintiff MIGUEL ZAMBRANO is an adult person who, at all times pertinent
2 hereto, was domiciled in the State of California. He brings this action individually and on behalf
3 of all current and former, similarly situated non-exempt, employees who work or worked for
4 Defendant SALDANA LANDSCAPE, INC. (“SALDANA LANDSCAPE”); ROBERTO
5 SALDANA (“SALDANA”) and Does 1 through 25, inclusive (hereinafter collectively
6 “Defendants”), as landscaping/gardening workers in the State of California, at any time during
7 the period of four years prior to the filing of the complaint in this action up to the present .

8 2. Plaintiff MIGUEL ZAMBRANO was an employee of DEFENDANTS during the
9 liability period, until approximately July 23, 2022. Plaintiff worked as a landscaper for Defendants
10 before he was terminated by Defendants, after suffering on injury on the job.

11 3. The similarly situated employees on whose behalf Plaintiff brings this action
12 include, without limitation: current and former, similarly situated non-exempt, employees who
13 work or worked for Defendants as landscaping and gardening workers in the State of California,
14 at any time during the period of four years prior to the filing of the complaint in this action up to
15 the present (the “Class”).

16 4. The “Class” is comprised of the following Sub-Classes:

17 (a) Unpaid Minimum-Regular Rate Wages and Compensation Sub-Class:

18 Those members of the Class who Defendants failed to pay all of their earned minimum and
19 regular rate wages and compensation;

20 (b) Overtime Subclass: Those members of the Class who Defendants failed to

21 pay all their earned overtime wages;

22 (c) Rest Period Sub-Class: Those members of the Class who worked in excess

23 of 4 hours a day but Defendants did not permit to take a valid paid 10 consecutive minute rest
24 period, uninterrupted, relieved of all job duties; and/or those members of the Class who worked
25 in excess of 6 hours a day but Defendants did not permit to take a second a valid, paid 10
26 consecutive minute rest period, uninterrupted, relieved of all job duties;

27 (d) Meal Period Sub-Class: Those members of the Class who worked in

28 excess of 5 hours a day but Defendants failed to provide a valid 30 consecutive minute meal

period, uninterrupted, relieved of all job duties; and/or those members of the Class who worked in excess of 10 hours a day but Defendants failed to provide a second valid 30 consecutive minute meal period, uninterrupted, relieved of all job duties;

(e) Recovery Period Sub-Class: Those members of the Class who worked for Defendants during the liability period, and who were not provided legally compliant recovery periods, or recovery period premiums;

(f) Untimely Payment of Wages-Compensation Sub-Class: Those members of the Class who were not timely paid all earned wages and compensation;

(g) Waiting Time Sub-Class: Those members of the Class who were not paid all earned wages and compensation immediately upon their termination or were not paid all earned wages and compensation within 72 hours of quitting;

(h) Wage-Statement Sub-Class: Those members of the Class who Defendants failed to provide a valid Labor Code § 226 compliant wage statement;

(i) Labor Code §2810.5 Notice Sub-Class: Those members of the Class who did not receive a written notice from Defendants in accordance with the statutory requirements of California Labor Code § 2810.5;

(j) Reimbursement Sub-Class: Those members of the Class who were not reimbursed for work related expense and/or mandated tools and equipment necessary for the job;

4. Plaintiff is informed, believes, and thereon alleges that Defendant, SALDANA LANDSCAPE is a California corporation doing business in the County of Los Angeles in the State of California.

5. Plaintiff is ignorant of the true names and capacities of Defendant Does 1 through 25, inclusive, and, by reason thereof, sue said Defendants by their fictitious names. Plaintiff will amend this complaint to allege the true names and capacity of said Doe Defendants when same have been fully and finally ascertained.

6. Pursuant to the terms of the applicable Wage Order, at no time relevant hereto was Plaintiff, or any fellow member of the Class, properly classified as an exempt managerial, administrative, or professional employee. Plaintiff is informed, believes, and thereon alleges that

1 neither they nor any fellow member of the Class spent more than one-half of time working on
2 managerial, administrative, or professional tasks during the Class Period.

3 7. On behalf of the Class and the general public, Plaintiff seeks to enforce the public
4 policy favoring compliance with labor and workplace safety and working condition standards
5 expressed under, inter alia, Labor Code § 90.5, to wit: “It is the policy of this state to vigorously
6 enforce minimum labor standards in order to ensure employees are not required or permitted to
7 work under substandard unlawful conditions, and to protect employers who comply with the law
8 from those who attempt to gain competitive advantage at the expense of their workers by failing
9 to comply with minimum labor standards.” Plaintiff alleges that the aforementioned conduct of
10 Defendants violates an important right affecting the public interest, as such phrase is used in
11 Code of Civil Procedure section 1021.5.

12 8. Plaintiff is informed, believes, and thereon alleges that SALDANA
13 LANDSCAPE, and Does 1 through 25 specifically authorized, directed or participated in the
14 violations of California Business and Professions Code, California Labor Code and applicable
15 Industrial Welfare Commission Wage Order, against Plaintiff and the Class, as set forth herein,
16 and an ordinarily prudent person, knowing what the directors knew at that time, would not have
17 acted similarly under the circumstances.

18 9. Plaintiff is informed, believes, and thereon alleges that SALDANA
19 LANDSCAPE, and Does 1 through 25, and on behalf of the similarly situated employees on
20 whose behalf Plaintiff brings this action including, without limitation current and former, similarly
21 situated non-exempt, employees who work or worked for Defendants as landscaping and
22 gardening workers in the State of California, were: (1) willful misclassified by Defendants as
23 independent contractors, and (2) as individuals who Defendants been willfully misclassified as
24 an independent contractor, charged a fee, or made any deductions from compensation, for any
25 purpose, including for goods, materials, space rental, services, government licenses, repairs,
26 equipment maintenance, or fines arising from the these similarly situated employees’
27 employment where any of the acts described in this paragraph would have violated the law if the
28 individuals had not been misclassified.

1 10. Plaintiffs, on behalf of themselves and all members of the Class, pursuant to
2 Business & Professions Code §§17200 and 17208, also seek restitution of unpaid wages and
3 reimbursements.

4 **VENUE AND JURISDICTION**

5 11. Plaintiff is informed, believes, and thereon alleges that two-thirds (2/3) or more of
6 the members of the proposed Class in the aggregate, at all times pertinent hereto, including, but
7 not limited to, the period from four years prior to commencement of this action to the present,
8 have been, and continue to be, citizens of the forum state, California, the state in which this
9 action was originally filed.

10 12. Plaintiff is informed, believes, and thereon alleges that SALDANA
11 LANDSCAPE, DOES 1 through 25, and others, are primary defendants in this action and, at all
12 times pertinent hereto, were and are citizens of the forum state of California.

13 13. Plaintiff is informed, believes, and thereon alleges that SALDANA
14 LANDSCAPE, ROBERTO SALDANA, DOES 1 through 25, and other's conduct, as alleged
15 herein, forms a significant basis for the claims asserted by Plaintiff and his fellow members of
16 the Class in this action.

17 14. Plaintiff is informed, believes, and thereon alleges that Plaintiff and his fellow
18 members of the Class are seeking significant relief from SALDANA LANDSCAPE, ROBERTO
19 SALDANA, DOES 1 through 25, and others.

20 15. Plaintiff is informed, believes, and thereon alleges that the principal injuries
21 sustained by Plaintiff and his fellow members of the Class, as alleges herein, resulted from the
22 conduct of Defendants, SALDANA LANDSCAPE, ROBERTO SALDANA, Does 1 through 25,
23 and others, were incurred in the forum state - California.

24 16. Plaintiff is informed, believes, and thereon alleges that the claims asserted in this
25 action do not involve matters of national or interstate interest; rather, this Class action involves a
26 local controversy of the forum state - California.

17. Plaintiff is informed, believes, and thereon alleges that the claims asserted in this action will be governed exclusively by the laws of the forum state - California – the state in which this action is originally filed.

18. Plaintiff is informed, believes, and thereon alleges that this action is brought in the Los Angeles County Superior Court for the State of California as said forum has a distinct nexus with Plaintiff and his fellow members of the Class, the harm alleged, as well as Defendants, SALDANA LANDSCAPE, ROBERTO SALDANA, and Does 1 through 25.

19. Plaintiff is informed, believes, and thereon alleges that, at all times mentioned herein, the number of citizens from the forum state of California, the state in which the action was originally filed, comprising the proposed Class in the aggregate is substantially larger than the number of citizens from any other state, and the citizenship of the other members of the class is dispersed among a substantial number of states.

20. Plaintiff is informed, believes, and thereon alleges that, at all times mentioned herein, that the claims alleged in this action, and the causes of action derived therefrom, do not involve a federal question(s).

21. At times pertinent hereto, Plaintiff and his fellow members of the Class, as employees of Defendants, performed work, and Defendants' liability arose, in the County of Los Angeles, State of California.

22. Venue is appropriate in Los Angeles County in that venue in a failure to pay wages claim against an employer is proper in the location where the work was performed. (*Owens v. Paraco, Inc.* (1958) 160 Cal.App.2d 824). Defendants' liability arose in Los Angeles County, and other counties throughout California, where they committed violations of applicable provisions of the California Business and Professions Code, California Labor Code, and applicable Industrial Welfare Commission Wage Orders, as detailed herein.

JOINT EMPLOYER

23. Plaintiff is informed, believes, and thereon alleges that, at all times mentioned herein, the named Defendants, Does 1 through 25, and each of them, were acting as the agent and/or employee of each remaining defendant, and were acting within the course and scope of

1 said principal-agency and/or employment relationship, and directed, authorized and/or ratified
2 the conduct set forth in detail herein. Plaintiff is further informed, believes, and thereon allege
3 that each of the fictitiously named Defendants is responsible in some manner for the occurrences
4 herein alleges and that Plaintiff and his fellow members of the Class's damages, as herein
5 alleges, were proximately caused by such Defendants, and each of them.

6 24. Plaintiff is informed, believes, and thereon alleges that Defendants and Does 1
7 through 25, inclusive, were, at all times pertinent hereto, joint employers of the named Plaintiff,
8 and other members of the Class, as they exercised joint control over and/or right to assign, place
9 and/or supervise the Class members' work or working conditions, maintained joint authority to
10 hire and fire employees, supervised and controlled employee work schedules and employment
11 conditions, determined rate and method of payment, and/or jointly maintained employment
12 records.

13 25. Plaintiff is informed, believes, and thereon alleges that at all times relative hereto,
14 Plaintiff and his fellow Class members performed work that simultaneously benefitted
15 Defendants and Does 1 through 25, inclusive.

16 26. Plaintiff is informed, believes, and thereon alleges that at all times pertinent
17 hereto, there existed an arrangement between Defendants and Does 1 through 25, inclusive, to
18 share the employee's services, and each Defendant acted, either directly or indirectly, in the
19 interest of their fellow Defendants in relation to the employment of Plaintiff and his fellow Class
20 members.

21 **ALTER EGO – AGENCY**

22 27. Plaintiff is informed, believes, and thereon alleges that there exists, and at all
23 times herein mentioned there existed, a unity of interest and ownership between Defendants and
24 Does 1 through 25, inclusive, on the one hand, and on the other hand, such that any corporate
25 individuality and separateness between said parties have ceased and that Defendants are the alter
26 ego of Does 1 through 25, inclusive, in that the businesses of Does 1 through 25, inclusive, are
27 so completely dominated, controlled, managed, and operated by Defendants that Does 1 through
28

1 25, inclusive, function as a mere instrumentalities through which Defendants conduct their
2 business.

3 28. Plaintiff is informed, believes and thereon allege that adherence to the fiction of
4 the existence of Does 1 through 25, as entities separate and distinct from Defendants would
5 permit an abuse of the corporate privilege and would sanction fraud and promote injustice in that
6 Plaintiff could be denied a full recovery in the event that the assets of Does 1 through 25 are
7 insufficient to satisfy a judgment entered against them in this action. The corporate veil
8 established Does 1 through 25, should be pierced and the alter ego doctrine applied in the context
9 of this action.

10 29. Plaintiff is informed, believes, and thereon alleges that Defendant Does 15
11 through 25 are individuals, directors, officers and shareholders of Defendants and Does 1
12 through 25, who influence and govern Defendants and Does 1 through 25, and/or were actors in
13 the course of conduct constituting the abuse of the corporate privilege, treating Defendants and
14 Does 1 through 25, as their alter ego, rather than as a separate entity, failing, inter alia, to
15 contribute capital, issue stock, or otherwise complete formation of the corporation, use corporate
16 assets as their own, commingle corporate funds with their personal funds, and/or failing to
17 observe corporate formalities. Further, Defendants, and Does 15 through 25, utilized Defendants
18 Does 1 through 25, to circumvent the applicable provisions, and frustrate the statutory policies,
19 of the California Business and Professions Code, California Labor Code and applicable
20 Industrial Welfare Commission Wage Orders, as set forth herein.

21 30. Plaintiff is informed, believes, and thereon alleges that it would sanction a fraud
22 or promote an injustice to uphold the corporate entities of Defendants and Does 1 through 25,
23 and allow the shareholders of Defendants and Does 15 through 25, to escape personal liability
24 for his/her/their debts to Plaintiff and his fellow members of the Class.

25 31. Plaintiff is informed, believes, and thereon alleges that Defendants and Does 1
26 through 25, specifically authorized, directed or participated in the violations of California
27 Business and Professions Code, California Labor Code and applicable Industrial Welfare
28 Commission Wage Orders, against Plaintiff and his fellow members of the Class, as set forth

1 herein, and an ordinarily prudent person, knowing what the directors knew at that time, would
2 not have acted similarly under the circumstances.

3 **APPLICABLE WAGE AND HOUR STANDARDS**

4 32. At all times pertinent hereto, pursuant to California law, including, but not limited
5 to, Labor Code § 1197-1198, it was unlawful to pay less than the wage established by law or to
6 employ persons in excess of the hours fixed by the Industrial Welfare Commission ("IWC") or
7 under conditions prohibited by the Industrial Wage Commission Wage Orders codified at 8 Cal.
8 Code Reg., Division 1 (the "IWC Wage Orders").

9 33. At all times pertinent hereto, California law, including, but not limited to, Labor
10 Code § 510 and the IWC Wage Orders which apply to Plaintiff and his fellow members of the
11 Class's employment with Defendants, provided for payment of a minimum wage regardless of
12 the number of hours worked; plus one and one-half (1 ½) times each employee's regular rate of
13 pay for all work over eight (8) hours in any workday, forty (40) hours in any workweek, or any
14 work performed on the seventh day of any workweek; plus double the employee's regular rate of
15 pay for work over 12 hours in a work day or over eight hours on the seventh day of any
16 workweek.

17 34. At all times pertinent hereto, California law, including, but not limited to, Labor
18 Code § 510 and the IWC Wage Orders which apply to Plaintiff and his fellow members of the
19 Class's employment with Defendants, provided for payment of a minimum wage regardless of
20 the number of hours worked. At all times relevant hereto, California law, including, but not
21 limited to, Labor Code § 510, and IWC Wage Order No. 16, which apply to Plaintiffs'
22 employment with Defendants, provided for payment of a minimum wage regardless of the
23 number of hours worked; plus one and one-half (1 ½) times each employee's regular rate of pay
24 for all work over eight (8) hours in any workday, forty (40) hours in any workweek, or the first 8
25 hours of the seventh consecutive day of work; as well as double their regular rate of pay for work
26 in excess of twelve hours per day or in excess of eight hours on the seventh consecutive day of
27 any work week.
28

1 35. At all times pertinent hereto, California law, including, but not limited to, Labor
2 Code § 1194.3, which applies to Plaintiff and his fellow members of the Class’s employment
3 with Defendants, provided, “An employee may recover attorney's fees and costs incurred to
4 enforce a court judgment for unpaid wages due pursuant to this code.”

5 36. At all times pertinent hereto, 8 Cal. Code Reg. (“CCR”) section 11070 (Industrial
6 Welfare Commission, Industry and Occupation Orders, Wage Order (the “Wage Order”), which
7 applies to Plaintiff and his fellow members of the Class’s employment with Defendants, required
8 that each non-exempt employee working at least 3.5 hours must be given a paid rest period of not
9 less than ten consecutive minutes, uninterrupted, where the employee is relieved of all duties;
10 and a second rest period of not less than ten consecutive minutes be given to each non-exempt
11 employee working at least six hours in any given workday.

12 37. At all times pertinent hereto, the Wage Order and Labor Code § 226.7, provided
13 that each non-exempt employee who was not permitted to take a valid rest period mandated
14 thereunder must be paid one hour of additional pay at the employee’s regular rate of pay for each
15 such workday in which a valid rest period was not provided.

16 38. At all times pertinent hereto, the Wage Order required that each employee
17 working at least five hours must be given a paid or unpaid meal period of not less than thirty
18 consecutive minutes, uninterrupted, where the employee is relieved of all job duties; and that a
19 second meal period of not less than thirty consecutive minutes, uninterrupted, be given to each
20 employee working at least ten hours in any given workday. Further, unless the employee is
21 relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered
22 an “on duty” meal period and counted as time worked. An “on duty” meal period shall be
23 permitted only when the nature of the work prevents an employee from being relieved of all duty
24 and when by written agreement between the parties an on-the-job paid meal period is agreed to.
25 The written agreement shall state that the employee may, in writing, revoke the agreement at any
26 time.

27 39. At all times pertinent hereto, the Wage Order and Labor Code § 226.7, provided
28 that each employee who was not permitted to take a meal period mandated thereunder must be

1 paid one hour of additional pay at the employee's regular rate of pay for each such workday in
2 which a valid meal period was not provided.

3 40. At all times pertinent hereto, Labor Code § 200 defined "wages" as including all
4 amounts for labor performed by employees of every description, whether the amount is fixed or
5 ascertained by the standard of time, task, piece, commission basis, or other method of
6 calculation.

7 41. At all times pertinent hereto, Labor Code § 204 provided that all wages, other
8 than those mentioned in Labor Code §§ 201, 202, 204.1, or 204.2, earned by any person in any
9 employment, are due and payable twice during each calendar month, on days designated in
10 advance by the employer as the regular paydays. Labor performed between the 1st and 15th
11 days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the
12 month during which the labor was performed, and labor performed between the 16th and the last
13 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the
14 following month.

15 42. At all times pertinent hereto, Labor Code § 201 provided that if an employer
16 discharges an employee, the wages earned and unpaid at the time of discharge are due and
17 payable immediately.

18 43. At all times pertinent hereto, Labor Code § 202 provided that if an employee not
19 having a written contract for a definite period quits their employment, their wages shall become
20 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
21 previous notice of their intention to quit, in which case the employee is entitled to their wages at
22 the time of quitting.

23 44. At all times pertinent hereto, Labor Code § 203 provided that an employer who
24 willfully fails to pay, without abatement or reduction, in accordance with Labor Code §§ 201 and
25 202, any wages of an employee who is discharged or who quits, the wages of the employee shall
26 continue as a penalty from the due date thereof at the same rate until paid or until an action
27 therefore is commenced; but the wages shall not continue for more than thirty (30) days.
28

1 45. At all times pertinent hereto, California law, including, but not limited to, Labor
2 Code § 226, required Defendants, “at the time of each payment of wages, furnish each of their
3 employees, either as a detachable part of the check, draft, or voucher paying the employee’s
4 wages, or separately when wages are paid by personal check or cash, an itemized statement in
5 writing showing: (1) gross wages earned, (2) total hours worked by the employee, . . . (4) all
6 deductions, provided, that all deductions made on written orders of the employee may be
7 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
8 which the employee is paid, (7) the name of the employee and their social security number, (8)
9 the name and address of the legal entity that is the employer, and (9) all applicable hourly rates
10 in effect during the pay period and the corresponding number of hours worked at each hourly
11 rate by the employee.”

12 46. At all times pertinent hereto, California law, including, Labor Code § 2810.5,
13 provided in pertinent part: “(a) (1) At the time of hiring, an employer shall provide to each
14 employee a written notice, in the language the employer normally uses to communicate
15 employment-related information to the employee, containing the following information: (A) The
16 rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece,
17 commission, or otherwise, including any rates for overtime, as applicable. (B) Allowances, if
18 any, claimed as part of the minimum wage, including meal or lodging allowances. (C) The
19 regular payday designated by the employer in accordance with the requirements of this code. (D)
20 The name of the employer, including any “doing business as” names used by the employer. (E)
21 The physical address of the employer’s main office or principal place of business, and a mailing
22 address, if different. (F) The telephone number of the employer. (G) The name, address, and
23 telephone number of the employer’s workers’ compensation insurance carrier. (H) That an
24 employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave;
25 may not be terminated or retaliated against for using or requesting the use of accrued paid sick
26 leave; and has the right to file a complaint against an employer who retaliates. (I) Any other
27 information the Labor Commissioner deems material and necessary....(b) An employer shall
28 notify their or their employees in writing of any changes to the information set forth in the notice

1 within seven calendar days after the time of the changes, unless one of the following applies: (1)
2 All changes are reflected on a timely wage statement furnished in accordance with Section 226.
3 (2) Notice of all changes is provided in another writing required by law within seven days of the
4 changes....”

5 47. Plaintiff, individually and on behalf of all others similarly situated, seeks recovery
6 of wages, restitution, as well as penalties for each day to which they and fellow members of the
7 Class, were subject to the unlawful conduct of Defendants, to wit: denied wages; underpaid for
8 actual hours of work; not compensated at the proper rate for hours worked; not permitted valid
9 ten (10) consecutive minute, uninterrupted rest periods, relieved of all job duties; were not
10 provided valid thirty (30) consecutive minute, uninterrupted meal periods, relieved of all job
11 duties; not timely paid all earned wages and compensation; were provided inaccurate and
12 incomplete wage statements; not paid all wages earned at the time of the termination of their
13 employment relationship with Defendants; were not provided a valid written notice compliant
14 with Labor Code 2810.5; and were misclassified as exempt from those provisions of the
15 California Labor Code and applicable Wage Order governing wages and other compensation.
16 Plaintiff, individually and on behalf of all other similarly situated members of the Class, also
17 seek remedies for unfair competition and unlawful, unfair, or fraudulent business practices,
18 which deprived Plaintiff and his fellow members of the Class of their proper wages and
19 compensation, in a calculated effort to illegally reduce payroll costs and increase Defendants’
20 profits.

21 48. Plaintiff, individually and on behalf of all others similarly situated, is informed,
22 believe and thereon alleges that at all times pertinent hereto, Labor Code § 558 provided in
23 pertinent part, “(a) Any employer or other person acting on behalf of an employer who violates,
24 or causes to be violated, a section of this chapter or any provision regulating hours and days of
25 work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any initial
26 violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the
27 employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For
28 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay

1 period for which the employee was underpaid in addition to an amount sufficient to recover
2 underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected
3 employee.... (c) The civil penalties provided for in this section are in addition to any other civil
4 or criminal penalty provided by law.” Plaintiff individually and on behalf of all others similarly
5 situated, is informed, believe and thereon alleges that at all times pertinent hereto, SALDANA
6 LANDSCAPE’S owner, ROBERTO SALDANA, as an employer or other person acting on
7 behalf of an employer, violated, or caused to be violated, a section of this chapter or any
8 provision regulating hours and days of work in any order of the IWC, as alleged herein in this
9 complaint.

10 49. At all times relevant hereto, California law, including, but not limited to, Labor
11 Code §351, provided in pertinent part: No employer or agent shall collect, take, or receive any
12 gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any
13 amount from wages due an employee on account of a gratuity, or require an employee to credit
14 the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee
15 from the employer. Every gratuity is hereby declared to be the sole property of the employee or
16 employees to whom it was paid, given, or left for. An employer that permits patrons to pay
17 gratuities by credit card shall pay the employees the full amount of the gratuity that the patron
18 indicated on the credit card slip, without any deductions for any credit card payment processing
19 fees or costs that may be charged to the employer by the credit card company. Payment of
20 gratuities made by patrons using credit cards shall be made to the employees not later than the
21 next regular payday following the date the patron authorized the credit card payment.

22 50. In response to the COVID-19 pandemic, and pursuant to Judicial Council of
23 California’s adoption of California Rules of Court Emergency Rule 9, the statute of limitations
24 for the claims alleged in the instant complaint were tolled from April 6, 2020 to October 1, 2020.

25 51. At all times relevant hereto, Labor Code § 226.8 provided, in pertinent part: (a) It
26 is unlawful for any person or employer to engage in any of the following activities: (1) Willful
27 misclassification of an individual as an independent contractor. (2) Charging an individual who
28 has been willfully misclassified as an independent contractor a fee, or making any deductions

1 from compensation, for any purpose, including for goods, materials, space rental, services,
2 government licenses, repairs, equipment maintenance, or fines arising from the individual's
3 employment where any of the acts described in this paragraph would have violated the law if the
4 individual had not been misclassified.

5 **GENERAL ALLEGATIONS**

6 52. Plaintiffs and Class are employees or former employees of Defendants and have
7 not been paid, during the relevant liability periods, the minimum wage required by statute or the
8 proper overtime wages for all hours actually worked. Plaintiff and Class were not paid meal
9 period premiums for missed, interrupted or late meal periods. Plaintiffs and Class were not paid
10 rest period premiums for missed rest periods. Plaintiffs and Class were not paid recovery period
11 premiums for missed recovery periods. Plaintiffs and Class were not provided a written notice in
12 accordance with the requirements of Labor Code §2810.5.

13 53. Plaintiffs and Class, at all times pertinent hereto, were not exempt from minimum
14 wage requirements, overtime wage requirements, meal and rest break requirements, or the
15 implementing rules and regulations of the applicable IWC California Wage Orders.

16 54. At the time Plaintiffs' employment ended, and the employment of other former
17 employees of Defendants ended, Defendants willfully failed to pay all the wages then owing,
18 including minimum, regular, and overtime wages then owing.

19 55. Defendants have failed to comply with Labor Code §226(a) by not providing
20 Plaintiffs and Class with itemized wage statements accurately reporting all applicable hourly
21 rates or the correct amount of regular, and/or overtime wages earned.

22 56. Plaintiff Sanchez, for example, was employed by Defendants for about five
23 months purportedly earning between \$16.00 and \$17.00 per hour. However, Plaintiff Sanchez
24 was paid a set amount of earnings each day (usually for 8 hours per shift) irrespective of how
25 many hours Plaintiff Sanchez worked, which often times exceeded 8 hours each shift.
26 Defendants failed to accurately record, if at all, the start and end time of each shift, including
27 meal breaks, if any, taken during the liability period. During that time, the minimum wage in
28

1 California ranged from about \$8.00 per hour up to \$10.00 per hour. Accordingly, Plaintiff
2 Sanchez was paid less than minimum wage on each occasion Plaintiff Sanchez worked in excess
3 of the set amount (usually 8 hours per shift) of hours scheduled. Defendants also unlawfully
4 adjusted Plaintiffs' time records to avoid paying overtime. Therefore, Plaintiff Sanchez was
5 routinely forced to work in excess of 8 hours each shift, but was not paid minimum wage and/or
6 overtime as required under California law. On information and belief, this was also true for the
7 Class during the liability period.

8 57. Defendants also retroactively changed/reduced Plaintiff Schupp's wage rate for
9 work already performed and earned under a specific wage rate. On information and belief, this
10 pattern and practice was also true for the Class during the liability period.

11 58. Because Defendants failed to pay the required minimum wage and failed to
12 calculate and pay overtime, neither the Plaintiffs nor Class received accurate itemized wage
13 statements showing the proper minimum wage hourly rate, the proper overtime hourly rates or
14 the proper amounts of minimum and overtime wages due and owing employees.

15 59. Finally, because Defendants failed to pay the required minimum wage and failed
16 to properly calculate overtime rates and pay, Plaintiffs and Class did not receive payment of all
17 minimum wages and overtime wages earned and unpaid immediately upon termination or
18 resignation of their employment.

19 60. During the liability period, Defendants, and each of them failed and/or refused to
20 schedule Plaintiffs and Class in an overlapping manner so as to reasonably provide meal and/or
21 rest breaks and/or shift relief for Plaintiffs and Class, thereby causing members of the Class to
22 work without being given paid ten (10) minute rest periods for every four (4) hours or major
23 fraction thereof worked and without being given a thirty (30) minute meal period for shifts of at
24 least five (5) hours and second thirty (30) minute meal periods for shifts of at least ten (10) hours
25 during which Class were relieved of all duties and free to leave the premises. Defendants further
26 failed and/or refused to schedule Plaintiffs and Class in an overlapping manner so as to
27 reasonably ensure meal and/or rest breaks were taken within the required statutory time frame as
28 required by law.

61. During the liability period, Defendants, and each of them failed and/or refused to refused to schedule Plaintiffs and Class in an overlapping manner so as to reasonably provide recovery or “cool-down” periods to prevent heat illness and as required by law.

62. Furthermore, Defendants failed and/or refused to pay Class one (1) hour's pay at the employees' regular rate of pay as premium compensation for failure to provide rest and/or meal periods and/or recovery periods or to providing such rest and/or meal periods and/or recovery periods within the statutory time frame as a result of their scheduling policy.

63. Further, Business and Professions Code section 17203 provides that any person who engages in unfair competition may be enjoined in any court of competent jurisdiction. Business and Professions Code section 17204 provides that any person who has suffered actual injury and has lost money or property as a result of the unfair competition may bring an action in a court of competent jurisdiction.

64. During the liability period, Defendants had a pattern and practice of failing to reimburse Plaintiff Schupp and Class for all necessary business expenses.

CLASS ALLEGATIONS

65. The similarly situated employees on whose behalf Plaintiff brings this action include, without limitation: current and former, similarly situated non-exempt, employees who work or worked for Defendants as dancers and entertainers in the State of California, at any time during the period of four years prior to the filing of the complaint in this action up to the present (the “Class”)

66. The “Class” is comprised of the following Sub-Classes:

(a) Unpaid Minimum-Regular Rate Wages and Compensation Sub-Class:

Those members of the Class who Defendants failed to pay all of their earned minimum and regular rate wages and compensation;

(b) Overtime Sub-Class: Those members of the Class who Defendants failed to pay all their earned overtime wages;

(c) Rest Period Sub-Class: Those members of the Class who worked in excess of 4 hours a day but Defendants did not permit to take a valid paid 10 consecutive minute rest

1 period, uninterrupted, relieved of all job duties; and/or those members of the Class who worked
2 in excess of 6 hours a day but Defendants did not permit to take a second a valid, paid 10
3 consecutive minute rest period, uninterrupted, relieved of all job duties;

4 (d) Meal Period Sub-Class: Those members of the Class who worked in
5 excess of 5 hours a day but Defendants failed to provide a valid 30 consecutive minute meal
6 period, uninterrupted, relieved of all job duties; and/or those members of the Class who worked
7 in excess of 10 hours a day but Defendants failed to provide a second valid 30 consecutive
8 minute meal period, uninterrupted, relieved of all job duties;

9 (e) Untimely Payment of Wages-Compensation Sub-Class: Those members of
10 the Class who were not timely paid all earned wages and compensation;

11 (f) Waiting Time Sub-Class: Those members of the Class who were not paid
12 all earned wages and compensation immediately upon their termination or were not paid all
13 earned wages and compensation within 72 hours of quitting;

14 (g) Wage-Statement Sub-Class: Those members of the Class who Defendants
15 failed to provide a valid Labor Code § 226 compliant wage statement;

16 (h) Labor Code §2810.5 Notice Sub-Class: Those members of the Class who
17 did not receive a written notice from Defendants in accordance with the statutory requirements of
18 California Labor Code § 2810.5;

19 (i) Sub-Class 11: "Reimbursement Class" All current and former California
20 residents who work or worked for Defendants as non-exempt construction workers during the
21 liability period, to be determined, and who were not reimbursed for all necessary business
22 expenditures;

23 67. Plaintiff reserves the right pursuant to California Rules of Court Rule 3.765, to
24 amend or modify the respective definitions of the Class and/or Sub-Classes to provide greater
25 specificity and/or further division into subclasses or limitation to particular issues.

26 68. Plaintiff and Class Representative, MIGUEL ZAMBRANO is a member of the
27 non-exempt employees comprising the Class, employed with Defendants in their dancing and
28

entertaining activities, in the State of California, at some time during the proposed Class Period of four years prior to the filing of this action.

69. Plaintiff is informed, believes and allege that Defendants have consistently maintained and enforced against Plaintiff and his fellow members of the Class the following unlawful practices and policies: (a) willfully refusing to pay Plaintiff and his fellow members of the Class all of their earned wages and compensation, including minimum, regular and overtime wages, by requiring, inter alia, Plaintiff and his fellow members of the Class to work and not compensating for all hours worked; (b) not permitting Plaintiff and his fellow members of the Class to take all of their statutorily entitled rest periods; (c) not providing Plaintiff and his fellow members of the Class the opportunity to take all of their statutorily entitled meal periods; (d) failing to pay Plaintiff and his fellow members of the Class one hour of compensation at their regular rate of pay, for each earned rest period not permitted and/or each earned meal period not provided; (e) not timely paying Plaintiff and his fellow members of the Class all of their earned wages and compensation; (f) failing to furnish to Plaintiff and his fellow members of the Class accurate Labor Code § 226 compliant wage statements; (g) not timely paying Plaintiff and his fellow members of the Class all of their earned wages, compensation immediately at the termination of their employment or within seventy-two hours of them quitting; (h) not providing Plaintiff and his fellow members of the Class a written notice in accordance with Labor Code § 2810.5; and/or (i) willfully misclassifying employees as independent contractors.

70. Plaintiff is informed, believes, and thereon alleges that the number of members of the Class is in excess of one hundred (100). Consequently, the Class is so numerous that joinder of all members individually would be impractical.

71. Plaintiff is informed, believes, and thereon alleges that all members of the Class are similarly situated in that, throughout their employment, they were subject to Defendants' violations of California labor law, including the following: Defendants maintained uniform policies and practices whereby Defendants regularly and systematically: (a) refused to pay Plaintiff and his fellow members of the Class all of their earned wages and compensation, including overtime wages, by requiring, inter alia, Plaintiff and his fellow members of the Class

1 to work in excess of the statutory hours permitted per day, thereby also failing to compensate the
2 Class of the appropriate overtime compensation; (b) did not permit Plaintiff and his fellow
3 members of the Class to take all of their statutorily entitled rest periods; (c) did not provide
4 Plaintiff and his fellow members of the Class the opportunity to take all of their statutorily
5 entitled meal periods; (d) failed to pay Plaintiff and his fellow members of the Class one hour of
6 compensation at their regular rate of pay, for each earned rest period not permitted and/or each
7 earned meal period not provided; (e) failed to timely pay Plaintiff and his fellow members of the
8 Class all of their earned wages and compensation; (f) failed to furnish to Plaintiff and his fellow
9 members of the Class accurate Labor Code § 226.7 compliant wage statements; (g) failed to
10 timely pay Plaintiff and his fellow members of the Class all of their earned wages, compensation
11 and benefits immediately at the termination of their employment or within seventy-two hours of
12 them quitting; (h) failed to provide Plaintiff and his fellow members of the Class a written notice
13 in accordance with Labor Code § 2810.5; and (i) failed to pay Plaintiff and his fellow members
14 of the Class one hour of compensation at their regular rate of pay, for each recovery period not
15 permitted.

16 72. Plaintiff is informed, believes, and thereon alleges that Defendants' unlawful
17 employment policies and practices, raise numerous questions of law common to the members of
18 the Class, including, without limitation: (i) whether the provisions of the Labor Code and 8 CCR
19 § 11050 include the employer's obligation to pay all earned wages and to pay all such earned
20 wages at the time of the termination of a member of the Class's employment; (ii) Defendants
21 legal obligation to permit members of the Class to take paid rest periods of ten (10) consecutive,
22 uninterrupted minutes for shifts in excess of four hours and a second rest period for shifts in
23 excess of six hours; (iii) Defendants legal obligation to provide members of the Class the
24 opportunity to take meal periods of thirty (30) consecutive, uninterrupted minutes for shifts in
25 excess of five hours and a second meal period for shifts in excess of ten hours; (iv) whether
26 Defendants obligation to provide Labor Code § 226 compliant wage statements to the members
27 of the Class are applicable to non-exempt employees such as the Plaintiff and his fellow
28 members of the Class; (v) Defendants' obligation to provide Plaintiff and his fellow members of

1 the Class written notice in accordance with Labor Code § 2810.5; (vi) what remedies, including
2 restitution, compensatory damages, statutory and civil penalties, additional wages and
3 disgorgement of revenue, are available under California law to members of the Class who: were
4 not paid all earned wages, compensation and benefits; were not timely paid all earned minimum,
5 regular and overtime wages, compensation and benefits; were not paid all wages earned at the
6 time of the termination of their employment relationship with Defendants; were not provided
7 lawful wage statements; were not permitted to take earned ten (10) minute rest periods; and/or
8 were not provided earned thirty (30) minute meal periods; were not provided written notice in
9 accordance with Labor Code § 2810.5; (vii) the Class members' entitlement to take a paid ten
10 consecutive minute, uninterrupted, rest period for shifts worked in excess of 3.5 (3.5) hours and a
11 second rest period of not less than ten consecutive minutes, uninterrupted, for shifts worked of at
12 least six (6) hours in a given workday; (viii) the Class members' entitlement to take a thirty
13 consecutive minute, uninterrupted, meal period for shifts worked in excess of five (5) hours and
14 a second meal period of not less than thirty consecutive minutes, uninterrupted, for shifts worked
15 of at least ten (10) hours in a given workday; (ix) the Class members' entitlement to one hour of
16 pay at the members' regular rate of pay for each paid ten (10) consecutive minute, uninterrupted,
17 rest period that Defendants did not permit the Class members to take; (x) the Class members'
18 entitlement to one hour of pay at the members' regular rate of pay for each thirty (30)
19 consecutive minute, uninterrupted, meal period that Defendants did not provide the Class
20 members to take; and (xi) the requirements for a wage statement to be compliant with Labor
21 Code § 226; (xii) the requirements for a written notice to be compliant with Labor Code §
22 2810.5; (xiii) the Class members' entitlement to recovery periods.

23 73. Plaintiff is informed, believes, and thereon alleges that the claims of Plaintiff are
24 typical of the claims of the Class because: they encompass the same unlawful policies and
25 practices of Defendants; they arise out of the same alleges course of conduct by Defendants; are
26 based upon the same legal theories as the claims of the Class; and the legal issues raised under
27 the California state laws as a result of Defendants' conduct apply equally to Plaintiff and his
28 fellow members of the Class.

1 74. Plaintiff has no conflicts of interest with their fellow members of the Class and
2 will be able to fairly and adequately protect the interests of all members of the Class.

3 75. Plaintiff is informed, believes, and thereon alleges that Paul Denis and Ethan Rasi
4 of Denis & Rasi, PC; individually and collectively, are able to adequately represent the Class, as
5 class counsel, with respect to the claims advanced in this action.

6 76. The prosecution of separate actions by or against individual members of the Class
7 would create a risk of substantial prejudice because separate actions could result in the
8 imposition of incompatible standards of conduct on the party opposing class certification through
9 inconsistent judgments or varying adjudications. Further, adjudication with respect to individual
10 members of the Class could, as a practical matter, be dispositive of the interests of the other
11 members who are not parties to the adjudication and/or could substantially impair or impede
12 their ability to protect their interests.

13 77. Plaintiff is informed, believes, and thereon alleges that Defendants have acted and
14 refused to act on grounds generally applicable to all or substantially all of the members of the
15 Class.

16 78. The questions of law and fact common to the members of the Class predominate
17 over any questions affecting only individual members, and a class action is superior to other
18 available methods for the fair and efficient adjudication of the controversy in that members of
19 the Class have little or no interest in individually controlling the prosecution of separate actions;
20 Plaintiff is aware of no other litigation concerning the controversy already commenced by
21 members of the Class; it is desirable to concentrate the litigation of the claims in this court
22 because substantially all of Plaintiff's employment activities for which his claims arise took
23 place within the venue of the above-entitled court and Defendants otherwise conduct business in
24 this jurisdiction; and the action is manageable as a class action because, compared with any other
25 method, such as consolidation of individual actions, a class action is fairer and more efficient,
26 and avoids the potential for inconsistent findings of fact and/or application of law. Furthermore,
27 a class action would maximize judicial efficiency and minimize the inconvenience to both party
28 and non-party witnesses who would otherwise have to testify in a multitude of proceedings.

1 **FIRST CAUSE OF ACTION**

2 **(FAILURE TO PAY ALL EARNED WAGES)**

3 **(Against All Defendants)**

4 79. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
5 alleged in this complaint, as though fully set forth herein.

6 80. Pursuant to Labor Code §§ 1197-1198, and the Wage Order, Plaintiff and
7 members of the Class were not exempt managerial, administrative, or professional employees.

8 81. Plaintiff is informed, believes, and thereon alleges that Defendants unlawfully
9 failed to pay Plaintiff and other similarly situated members of the Class for all the time worked
10 as a result of Defendants' labor policies and practices, including, but not limited to: (a) failure to
11 compensate members overtime premium for all hours worked in excess of eight hours per day.

12 82. Plaintiff is informed, believes, and thereon alleges that Defendants unlawfully
13 failed and refused and continue to fail and refuse to pay compensation for all hours worked by
14 Plaintiff and the Class at their regular rate of pay.

15 83. As a result of Defendants' conduct, Plaintiff and other fellow members of the
16 Class are entitled to a recovery of damages for all unpaid wages at the proper rates of pay as
17 restitution from Defendants.

18 84. At all times pertinent hereto, California Labor Code § 1194 provided:
19 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the
20 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
21 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
22 compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

23 85. At all times pertinent hereto, California Labor Code § 1194.2 provides for the
24 recovery of prejudgment interest in any action brought to recover the nonpayment of wages, at
25 the rate specified in Civil Code § 3289.

26 86. Plaintiff is informed, believes, and thereon alleges that Defendants, by and
27 through their respective corporate officers, directors, and managing agents, ordered, authorized,
28 approved, and/or ratified the conduct herein alleges with intent to deprive the Plaintiff and his

1 fellow members of the Class of monies to which they were and are entitled under California law,
2 so as to increase Defendants' profits, notwithstanding clear statutory obligations, including those
3 which carry criminal penalties for noncompliance.

4 **SECOND CAUSE OF ACTION**

5 **(FAILURE TO PAY ALL EARNED OVERTIME WAGES)**

6 **(Against All Defendants)**

7 87. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
8 alleged in this complaint as though fully set forth herein.

9 88. Pursuant to Labor Code §§ 1197-1198, and the Wage Order, Plaintiff and his
10 fellow members of the Class were not exempt managerial, administrative, or professional
11 employees.

12 89. Plaintiff is informed, believes, and thereon alleges that for each day and week
13 within the applicable limitations period, during the course of their employment with Defendants,
14 Plaintiff and his fellow members of the Class performed work without being paid the required
15 overtime wage under California law, including, but not limited to, the Wage Order and Labor
16 Code § 1182.12.

17 90. Plaintiff is informed, believes, and thereon alleges that for each day and week
18 within the applicable limitations period, during the course of his employment with Defendants,
19 Plaintiff and his fellow members of the Class performed work in excess of eight hours per day,
20 forty hours per week, and/or the first eight hours of work on a seventh consecutive day as well as
21 double their regular rate of pay for work in excess of twelve hours per day or in excess of eight
22 hours on the seventh consecutive day of work, without being paid the required overtime wages
23 under California law, including, but not limited to, the Wage Order and Labor Code §§ 510, 512.

24 91. Plaintiff is informed, believes, and thereon alleges that for each day and week
25 within the applicable limitations period, during the course of his employment with Defendants,
26 Plaintiff and his fellow members of the Class performed work in excess of 16 hours per day,
27 forty hours per week, and/or forty-eight hours per week, without being paid the required
28

1 overtime and/or double time wages under California law, including, but not limited to, the Wage
2 Order and Labor Code §§ 510, 512.

3 92. Plaintiff is informed, believes, and thereon alleges that Defendants unlawfully
4 failed, refused and continue to fail and refuse to pay Plaintiff and his fellow members of the
5 Class one and one-half times their regular rate of pay for hours worked in excess of 8 hours in a
6 given day, 40 hours in a given seven day period, in addition to the first 8 hours of the seventh
7 consecutive day of work; as well as double their regular rate of pay for work in excess of twelve
8 hours per day, or in excess of eight hours on the seventh consecutive day of work.

9 93. Plaintiff is informed, believes, and thereon alleges that Defendants unlawfully
10 failed, refused and continue to fail and refuse to pay Plaintiff and his fellow members of the
11 Class one and one-half times their regular rate of pay for hours worked in excess of 40 hours in a
12 given seven day period; as well as double their regular rate of pay for work in excess of sixteen
13 (16) hours per day, or in excess of 48 eight hours in a given seven day period .

14 94. As a result of Defendants' conduct, Plaintiff and his fellow members of the Class
15 are entitled to a recovery of damages for all unpaid overtime wages at the proper rates of pay as
16 restitution from Defendants.

17 95. At all times pertinent hereto, California Labor Code § 1194 provided:
18 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the
19 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
20 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
21 compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

22 96. At all times pertinent hereto, California Labor Code § 1194.2 provided for the
23 recovery of prejudgment interest in any action brought to recover the nonpayment of minimum
24 wages and overtime wages at the rate specified in Civil Code § 3289.

25 97. At all times pertinent hereto, Labor Code § 1194.3 provided for the recovery of
26 attorney's fees and costs in any action brought to recover the nonpayment of minimum or
27 overtime wages.
28

1 98. Plaintiff is informed, believes, and thereon alleges that Defendants, and each of
2 them, by and through their respective corporate officers, directors, and managing agents,
3 ordered, authorized, approved, or ratified the conduct herein alleges with the intent to deprive
4 Plaintiff and his fellow members of the Class of the minimum and overtime wages to which they
5 were entitled under California law so as to increase Defendants' profits, notwithstanding their
6 statutory obligations, including those which carry criminal penalties for noncompliance.

7 **THIRD CAUSE OF ACTION**

8 **(FAILURE TO PERMIT PAID 10 MINUTE REST PERIODS)**

9 **(Against All Defendants)**

10 99. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
11 alleged in this complaint as though fully set forth herein.

12 100. Pursuant to the terms of the applicable Wage Order, at no time relevant hereto
13 was Plaintiff or any fellow member of the Class properly classified as an exempt managerial,
14 administrative, or professional employee. Plaintiff is informed, believes, and thereon allege that
15 neither they nor any fellow member of the Class spent more than one-half of their time working
16 on managerial, administrative, or professional tasks during the relevant time periods.

17 101. Plaintiff is informed, believes, and thereon alleges that Defendants have
18 consistently and continuously promulgated and enforced policies and practices, each day and
19 week of each pay period within the applicable limitations period, under which Plaintiff and his
20 fellow members of the Class regularly worked shifts in excess of four hours without being
21 permitted the opportunity to take a paid rest period of at least ten (10) consecutive minutes,
22 uninterrupted, relieved of all job duties, and worked more than six (6) hours at a time without
23 being allowed a second paid ten (10) consecutive minute, uninterrupted, rest period, relieved of
24 all job duties.

25 102. Plaintiff is informed, believes, and thereon alleges that no member of the Class
26 has ever been paid their earned compensation for work performed by members of the Class
27 during the rest period to which they were entitled, yet not provided the opportunity to take, as
28 well as additional monies required under Labor Code § 226.7. Instead, Defendants have

1 unlawfully failed and refused and continue to fail and refuse to pay monies to Plaintiff and his
2 fellow members of the Class for labor performed during the rest periods which Defendants
3 refused to permit Plaintiff and his fellow members of the Class opportunity to take.

4 103. Plaintiff is informed, believes, and thereon alleges that Defendants, by and
5 through their respective corporate officers, directors, and managing agents, ordered, authorized,
6 approved, and/or ratified the conduct herein alleges with intent to deprive the Plaintiff and his
7 fellow members of the Class of the monies to which they were and are entitled under California
8 law, so as to increase Defendants' profits, notwithstanding clear statutory obligations, including
9 obligations which carry criminal penalties for noncompliance.

10 **FOURTH CAUSE OF ACTION**

11 **(FAILURE TO PROVIDE 30 MINUTE MEAL PERIODS)**

12 **(Against All Defendants)**

13 104. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
14 alleged in this complaint as though fully set forth herein.

15 105. Pursuant to the terms of the applicable Wage Order, at no time relevant hereto
16 were the Plaintiff or any fellow member of the Class properly classified as an exempt
17 managerial, administrative, or professional employee. Plaintiff is informed, believes, and
18 thereon alleges that neither Plaintiff nor fellow members of the Class member spent more than
19 one-half of their time working on managerial, administrative, or professional tasks during the
20 Class Period.

21 106. Plaintiff is informed, believes, and thereon alleges that during each day and week
22 of each pay period within the applicable limitations period, Defendants have consistently and
23 continuously promulgated and enforced policies and practices under which the Plaintiff and his
24 fellow members of the Class regularly worked more than five (5) hours at a time without being
25 permitted the opportunity to take a meal period of at least thirty (30) consecutive minutes,
26 uninterrupted, relieved of all job duties, and worked more than ten (10) hours at a time without
27 being allowed a second thirty (30) consecutive minute, uninterrupted, meal period, relieved of all
28 job duties.

1 107. The nature of the work performed by Plaintiff and his fellow members of the
2 Class did not prevent them from being relieved of all job duties.

3 108. Plaintiff is informed, believes, and thereon alleges that neither Plaintiff nor his
4 fellow members of the Class have ever been paid their earned compensation for work they
5 performed during the meal period to which they were entitled, yet not provided the opportunity
6 to take, as well as additional monies required under Labor Code § 226.7. Instead, Defendants
7 unlawfully failed, refused and continue to fail and refuse to pay monies to Plaintiff and the Class
8 for labor performed during the meal periods which Defendants refused to provide Plaintiff and
9 his fellow members of the Class the opportunity to take.

10 109. Plaintiff is informed, believes, and thereon alleges that Defendants, by and
11 through their respective corporate officers, directors, and managing agents, ordered, authorized,
12 approved, and/or ratified the conduct herein alleges with intent to deprive the Plaintiff and his
13 fellow members of the Class of monies to which they were and are entitled under California law,
14 so as to increase Defendants' profits, notwithstanding clear statutory obligations, including
15 obligations which carry criminal penalties for noncompliance.

16 **FIFTH CAUSE OF ACTION**
17 **FAILURE TO PROVIDE RECOVERY PERIODS OR COMPENSATION IN LIEU**
18 **THEREOF**
19 **(Against all Defendants)**

20 110. Plaintiffs individually, and on behalf of the Plaintiff Class, hereby re-allege and
21 incorporate by reference all facts and allegations alleged in this complaint, as though fully set
22 forth herein.

23 111. Labor Code §226.7 provides that employers afford all employees recovery, or
24 “cool-down,” periods to prevent heat illness.

25 ///

26 ///

27 ///

28 ///

112. Labor Code §226.7(b) provides that:

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

113. Labor Code §226.7(c) provides that if an employer fails to provide an employee a recovery period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the recovery period is not provided.

114. Title 8 of the California Code of Regulations ("C.C.R.") § 3395 requires employers in the construction industry to allow and encourage their employees to take a "cool-down rest or recovery period" in the shade for a period of no less than five minutes at a time when said construction employees feel the need to do so to protect themselves from overheating, or "heat illness." Said regulations also mandate that access to shade shall be permitted at all times. Title 8 C.C.R. § 3395 also provides, in pertinent part:

When temperatures reach 95 degrees Fahrenheit or above, employers shall ensure that the employee takes a minimum ten minute net preventative cool-down rest period every two hours. [...] If the workday will extend beyond eight hours, then an additional preventative cool-down rest period will be required at the conclusion of the tenth hour and so on. For purposes of this section, preventative cool-down rest period has the same meaning as "recovery period" in Labor Code Section 226.7(a).

115. Labor Code §226.7(d) provides that recovery periods mandated by law must be counted as hours worked for which they may be no deduction from wages.

116. Defendants, and each of them, failed and or refused to allow and encourage recovery periods and/or work free recovery periods for Plaintiffs and Plaintiff Class. Furthermore, due to Defendants' relief system, Plaintiffs and Plaintiff Class recovery periods were not allowed and/or encouraged and/or interrupted and/or ordered back to work during purported recovery

1 periods. By and through their actions, Defendants intentionally and improperly denied recovery
2 periods to the Plaintiffs and Plaintiff Class in violation of Labor Code sections 226.7.

3 117. At times relevant hereto, Plaintiffs and Plaintiff Class, have worked more than
4 eight (8) hours in a workday.

5 118. By virtue of the Defendants' unlawful failure to provide recovery periods to
6 Plaintiffs and Plaintiff Class, and as a result of its scheduling and shift relief system, Plaintiffs and
7 Plaintiff Class have suffered, and will continue to suffer, damages, in amounts which are presently
8 unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained
9 according to proof at trial.

10 119. Plaintiffs, individually, and on behalf of employees similarly situated, request
11 recovery of recovery period compensation pursuant to Labor Code §226.7, which they are owed
12 beginning four (4) years prior to filing this Complaint as well as the assessment of any statutory
13 penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or
14 any other statute.

15 **SIXTH CAUSE OF ACTION**

16 **(FAILURE TO TIMELY PAY ALL EARNED WAGES AND COMPENSATION)**

17 **(Against All Defendants)**

18 120. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth
19 in this Complaint as though fully set forth herein.

20 121. At all times pertinent hereto, California law, including, but not limited to, Labor
21 Code § 204 provided that all wages, other than those mentioned in Labor Code § 201, 202,
22 204.1, or 204.2, earned by any person in any employment, are due and payable twice during each
23 calendar month, on days designated in advance by the employer as the regular paydays. Labor
24 performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
25 between the 16th and the 26th day of the month during which the labor was performed, and labor
26 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
27 between the 1st and 10th day of the following month.
28

1 122. Plaintiff is informed, believes and thereon allege that Defendants failed to timely
2 tender Plaintiff and his fellow members of the Class all of their earned minimum and regular
3 wages, overtime wages, and Labor Code § 226.7 compensation, earned by Plaintiff and his
4 fellow members of the Class, in accordance with California law, including, but not limited to,
5 Labor Code § 204, such that labor performed between the 1st and 15th days, inclusive, of any
6 calendar month was not paid for between the 16th and the 26th day of the month during which
7 the labor was performed, and labor performed between the 16th and the last day, inclusive, of
8 any calendar month, was not paid for between the 1st and 10th day of the following month.

9 123. Plaintiff is informed, believes and thereon allege that as a consequence of
10 Defendants' failure to timely tender Plaintiff and his fellow members of the Class all of their
11 earned minimum and regular wages, overtime wages, and Labor Code § 226.7 compensation,
12 Plaintiff was deprived of the timely receipt of their earned wages and other compensation and, as
13 a result thereof, were deprived of the interest and monetary appreciation that would accrue on
14 said monies - financial growth which Defendants were afforded the opportunity to realize as a
15 consequence of their unlawful and unfair withholding of said wages and compensation earned
16 by, and due and owing, Plaintiff and his fellow members of the Class.

17 124. At all times pertinent hereto, California law, including, but not limited to, Labor
18 Code § 215 provided, "Any person, or the agent, manager, superintendent or officer thereof, who
19 violates any provision of Section 201.3, 204, 204b, 205, 207, 208, 209, or 212 is guilty of a
20 misdemeanor. Any failure to keep posted any notice required by Section 207 is prima facie
21 evidence of a violation of these sections."

22 125. At all times pertinent hereto, California law, including, but not limited to, Labor
23 Code § 216 provided, "In addition to any other penalty imposed by this article, any person, or an
24 agent, manager, superintendent, or officer thereof is guilty of a misdemeanor, who: (a) Having
25 the ability to pay, willfully refuses to pay wages due and payable after demand has been made.
26 (b) Falsely denies the amount or validity thereof, or that the same is due, with intent to secure for
27 himself, their employer or other person, any discount upon such indebtedness, or with intent to
28 annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is due."

126. Plaintiff is informed, believes, and thereon alleges that Defendants, and each of them, by and through their respective corporate officers, directors, and managing agents, ordered, authorized, approved, or ratified the conduct herein alleged with the intent to deprive Plaintiff and fellow members of the Class of the wages to which they were entitled under California law so as to increase Defendants' profits, regardless of their statutory obligations, including those which carry criminal penalties for noncompliance.

SEVENTH CAUSE OF ACTION

**(FAILURE TO PAY ALL EARNED WAGES AND
COMPENSATION UPON TERMINATION OF EMPLOYMENT)**

(Against All Defendants)

127. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations alleged in this complaint as though fully set forth herein.

128. At all times pertinent hereto, Labor Code § 201 provided that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

129. At all times pertinent hereto, Labor Code § 202 provided that if an employee not having a written contract for a definite period quits their employment, their wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of their intention to quit, in which case the employee is entitled to their wages at the time of quitting.

130. Plaintiff is informed, believes, and thereon alleges that for each day and week of each pay period within the applicable limitations period, Plaintiff and/or members of the Class's employment relationship with Defendants were terminated without Defendants paying all wages, and compensation due Plaintiff and their fellow members of the Class in the time period prescribed by the Labor Code.

131. Plaintiff are informed, believes, and thereon allege that Plaintiff and his fellow members of the Class have been available and ready to receive wages and compensation owed to them.

1 132. Plaintiff are informed, believes, and thereon allege that Plaintiff and his fellow
2 members of the Class have not refused to receive any payment, nor have Plaintiff or his fellow
3 members of the Class been absent from their regular place of residence to receive the wages and
4 compensation due and owing them by Defendants.

5 133. Plaintiff is informed, believes, and thereon alleges that Defendants' failure to pay
6 Plaintiff and his fellow members of the Class their wages and compensation due and owing, as
7 set forth in detail herein, was willful; Defendants have knowingly refused to pay Plaintiff and his
8 fellow members of the Class all of the wages and compensation due and owing Plaintiff and his
9 fellow members of the Class.

10 134. At all times pertinent hereto, Labor Code § 203 provided that an employer who
11 willfully fails to pay, without abatement or reduction, in accordance with Labor §§ 201, 201.5,
12 202, and 205.5, any wages of an employee who is discharged or who quits, the daily wages of
13 the employee shall continue as a penalty from the due date thereof at the same daily rate until
14 paid or until an action therefore is commenced up to, but not more than thirty (30) days.

15 135. At all times pertinent hereto, Labor Code § 216 provided that in addition to any
16 other penalty imposed by the article, any person, or an agent, manager, superintendent, or officer
17 thereof is guilty of a misdemeanor, who: (a) Having the ability to pay, willfully refuses to pay
18 wages due and payable after demand has been made; (b) Falsely denies the amount or validity
19 thereof, or that the same is due, with intent to secure for himself, their employer or other person,
20 any discount upon such indebtedness, or with intent to annoy, harass, oppress, hinder, delay, or
21 defraud, the person to whom such indebtedness is due.

22 136. At all times pertinent hereto, California law, including, but not limited to, Labor
23 Code § 1194, provided that for any action brought for the nonpayment of wages, fringe benefits,
24 or health and welfare or pension fund contributions, the court shall award reasonable attorney's
25 fees and costs to the prevailing party if any party to the action requests attorney's fees and costs
26 upon the initiation of the action.

27 137. At all times pertinent hereto, Labor Code § 1194.2 provided that in any action
28 brought for the nonpayment of wages, the court shall award interest on all due and unpaid wages

1 at the rate of interest specified in Civil Code § 3289(b), which shall accrue from the date that the
2 wages were due and payable.

3 138. Plaintiff is informed, believes, and thereon alleges that Defendants, by and
4 through their respective officers, directors, and managing agents, ordered, authorized, approved
5 and/or ratified the conduct herein alleges with intent to deprive the Plaintiff and his fellow
6 members of Class of the monies to which they were entitled under California law, so as to
7 increase Defendants' profits, regardless of their statutory obligations, including those which
8 carry criminal penalties for noncompliance.

9 **EIGHTH CAUSE OF ACTION**

10 **(FAILURE TO PROVIDE LAWFUL WAGE STATEMENTS)**

11 **(Against All Defendants)**

12 139. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
13 alleged in this complaint as though fully set forth herein.

14 140. At all times pertinent hereto, California Labor Code § 226 required Defendants, at
15 the time of each payment of wages, to furnish each of their employees, either as a detachable part
16 of the check, draft, or voucher paying the employee's wages, or separately when wages are paid
17 by personal check or cash, an itemized statement in writing showing: (1) gross wages earned, (2)
18 total hours worked by the employee, . . . (4) all deductions, provided, that all deductions made on
19 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
20 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
21 employee and their social security number, (8) the name and address of the legal entity that is the
22 employer, and (9) all applicable hourly rates in effect during the pay period and the
23 corresponding number of hours worked at each hourly rate by the employee.

24 141. Plaintiff is informed, believes, and thereon alleges that for each day and week of
25 each pay period within the applicable limitations period, Defendants failed to provide an
26 itemized statement in writing that complied with Labor Code § 226, including, but not limited to,
27 the following: failing to accurately record all earned overtime; failing to list the applicable hourly
28

1 rate in effect during the pay period and accurately record the corresponding number of hours
2 worked at each hourly rate by Plaintiff and his fellow members of the Class.

3 142. As a result of Defendants' failure, Plaintiff and his fellow members of the Class
4 are entitled to recover the greater of all actual damages or fifty dollars for the initial pay period in
5 which a violation occurred and one hundred dollars per for each violation in a subsequent pay
6 period, not exceeding an aggregate penalty of \$4,000, plus costs and reasonable attorney's fees
7 pursuant to California law, including, but not limited to, Labor Code § 226(e).

8 **NINTH CAUSE OF ACTION**

9 **(VIOLATION OF CALIFORNIA WAGE THEFT PREVENTION ACT)**

10 **(Against All Defendants)**

11 143. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
12 alleged in this complaint as though fully set forth herein.

13 144. At all times pertinent hereto, California's Wage Theft Prevention Act, codified in
14 part in California Labor Code § 2810.5, provided in pertinent part: (a) (1) At the time of hiring,
15 an employer shall provide to each employee a written notice, in the language the employer
16 normally uses to communicate employment-related information to the employee, containing the
17 following information: (A) The rate or rates of pay and basis thereof, whether paid by the hour,
18 shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as
19 applicable. (B) Allowances, if any, claimed as part of the minimum wage, including meal or
20 lodging allowances. (C) The regular payday designated by the employer in accordance with the
21 requirements of this code. (D) The name of the employer, including any "doing business as"
22 names used by the employer. (E) The physical address of the employer's main office or principal
23 place of business, and a mailing address, if different. (F) The telephone number of the employer.
24 (G) The name, address, and telephone number of the employer's workers' compensation
25 insurance carrier. (H) That an employee: may accrue and use sick leave; has a right to request
26 and use accrued paid sick leave; may not be terminated or retaliated against for using or
27 requesting the use of accrued paid sick leave; and has the right to file a complaint against an
28 employer who retaliates. (I) Any other information the Labor Commissioner deems material and

1 necessary....(3) If the employer is a temporary services employer, as defined in Section 201.3,
2 the notice described in paragraph (1) must also include the name, the physical address of the
3 main office, the mailing address if different from the physical address of the main office, and the
4 telephone number of the legal entity for whom the employee will perform work, and any other
5 information the Labor Commissioner deems material and necessary. ... (b) An employer shall
6 notify their or their employees in writing of any changes to the information set forth in the notice
7 within seven calendar days after the time of the changes, unless one of the following applies:
8 (1) All changes are reflected on a timely wage statement furnished in accordance with Section
9 226. (2) Notice of all changes is provided in another writing required by law within seven days
10 of the changes.

11 145. Plaintiff is informed, believes and thereon allege that all times pertinent hereto,
12 Defendants were not security services companies licensed by the Department of Consumer
13 Affairs and that solely provided security services.

14 146. At all times pertinent hereto, neither Plaintiff nor his fellow members of the Class
15 were employees directly employed by the state or any political subdivision thereof, including any
16 city, county, city and county, or special district.

17 147. At all times pertinent hereto, neither Plaintiff nor his fellow members of the Class
18 were employees who were exempt from the payment of overtime wages by statute or the wage
19 orders of the Industrial Welfare Commission.

20 148. At all times pertinent hereto, neither Plaintiff nor his fellow members of the Class
21 were employees who were covered by a valid collective bargaining agreement which expressly
22 provided for the wages, hours of work, and working conditions of the employee, or an agreement
23 which provided premium wage rates for all overtime hours worked and a regular hourly rate of
24 pay of not less than 30 percent more than the state minimum wage.

25 149. Plaintiff is informed, believes and thereon allege that at no time during the Class
26 Period did Defendants provide either Plaintiff or his fellow members of the Class the written
27 notice required pursuant to the California's Wage Theft Prevention Act, codified in part in
28 California Labor Code § 2810.5.

1 **TENTH CAUSE OF ACTION**

2 **(FAILURE TO INDEMNIFY)**

3 **(Against All Defendants)**

4
5 150. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
6 alleged in this complaint, as though fully set forth herein.

7 151. At all times pertinent hereto, Section 8 the Wage Order provided, “No employer
8 shall make any deduction from the wage or require any reimbursement from an employee for any
9 cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage, breakage,
10 or loss is caused by a dishonest or willful act, or by the gross negligence of the employee.”

11 152. At all times relevant hereto, California law, including, but not limited to, Labor
12 Code § 2802, provided in pertinent part: “(a) An employer shall indemnify his or their employee
13 for all necessary expenditures or losses incurred by the employee in direct consequence of the
14 discharge of his or their duties, or of his or their obedience to the directions of the employer,
15 even though unlawful, unless the employee, at the time of obeying the directions, believed them
16 to be unlawful.

17 153. Plaintiff is informed, believes, and thereon alleges that during the period of four
18 years prior to the filing of the complaint in this action up to the present Defendants violated
19 Labor Code §2802 by failing to indemnify Plaintiff and her fellow members of the Class for all
20 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
21 of his or their duties. Such failures include, but are not limited to, back-charging Plaintiff and her
22 fellow members of the Class for purportedly failed quality control assessments and any lost
23 equipment.

24 154. At all times relevant hereto, California law, including, but not limited to,
25 provision 9 of the governing Industrial Welfare Commission Wage Order, provided in pertinent
26 part: “9. UNIFORMS AND EQUIPMENT ...(B) When such tools and equipment shall be
27 provided and maintained by the employer, except that an employee whose wages are at least two
28 (2) times the minimum wage provided herein may be required to provide and maintain hand

1 tools and equipment customarily required by the trade or craft.”

2 155. Plaintiff is informed, believes, and thereon alleges that during the period of four
3 years prior to the filing of the complaint in this action up to the present Defendants violated
4 provision 9 of the governing Industrial Welfare Commission Wage Order by failing to provide
5 Plaintiff and her fellow members of the Class tools or equipment that were required by
6 Defendants or were necessary to the performance of the job. Such tools and equipment include,
7 but are not limited to: cellphone/mobile phones with the company required customer service
8 software/”app” installed.

9 156. At all times relevant hereto, California law, including, but not limited to, Labor
10 Code § 2802, provided in pertinent part: “(a) An employer shall indemnify his or their employee
11 for all necessary expenditures or losses incurred by the employee in direct consequence of the
12 discharge of his or their duties, or of his or their obedience to the directions of the employer,
13 even though unlawful, unless the employee, at the time of obeying the directions, believed them
14 to be unlawful. (b) All awards made by a court or by the Division of Labor Standards
15 Enforcement for reimbursement of necessary expenditures under this section shall carry interest
16 at the same rate as judgments in civil actions. Interest shall accrue from the date on which the
17 employee incurred the necessary expenditure or loss. (c) For purposes of this section, the term
18 “necessary expenditures or losses” shall include all reasonable costs, including, but not limited
19 to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

20 157. Plaintiff and fellow members of the Class have incurred costs and attorneys’ fees,
21 and will continue to incur costs and attorneys’ fees to enforce their rights and the rights of their
22 fellow members of the Class under the Labor Code. Plaintiff and fellow members of the Class
23 are entitled to recover their reasonable attorneys’ fees and costs in an exact amount to be proven
24 at trial.

25 158. Plaintiff is informed, believes, and thereon alleges that Defendants, by and
26 through their respective corporate officers, directors, and managing agents, ordered, authorized,
27 approved, and/or ratified the conduct herein alleged with intent to deprive the Plaintiff and her
28 fellow members of the Class of monies and other benefits to which they were and are entitled

1 under California law, so as to increase Defendants' profits, notwithstanding clear statutory
2 obligations, including obligations which carry criminal penalties for noncompliance.

3 **ELEVENTH CAUSE OF ACTION**

4 **(UNFAIR BUSINESS PRACTICES)**

5 **(Against All Defendants)**

6 159. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
7 alleged in this complaint as though fully set forth herein.

8 160. Plaintiff is informed, believes, and thereon alleges that for each day and week of
9 each pay period within the applicable limitations period, Defendants reaped substantial unjust
10 revenue by, inter alia: (a) willfully refusing to pay Plaintiff and his fellow members of the Class
11 all of their earned wages and compensation, including overtime wages, by failing to compensate
12 Plaintiff and his fellow members of the class all legally required overtime premium for all
13 overtime hours worked; (b) not permitting Plaintiff and his fellow members of the Class to take
14 all of their statutorily entitled rest periods; (c) not providing Plaintiff and his fellow members of
15 the Class the opportunity to take all of their statutorily entitled meal periods; (d) failing to pay
16 Plaintiff and his fellow members of the Class one hour of compensation at their regular rate of
17 pay, for each earned rest period not permitted and/or each earned meal period not provided; (e)
18 not timely paying Plaintiff and his fellow members of the Class all of their earned wages and
19 compensation; (f) failing to furnish to Plaintiff and his fellow members of the Class accurate
20 Labor Code § 226 compliant wage statements; (g) not timely paying Plaintiff and his fellow
21 members of the Class all of their earned wages, compensation and benefits immediately at the
22 termination of their employment or within seventy-two hours of them quitting; and/or (h) not
23 providing Plaintiff and his fellow members of the Class a written notice in accordance with
24 Labor Code § 2810.5; and (j) failing to abide by other provisions of the California Labor Code
25 and Code of Regulations, including, without limitation, Labor Code §§ 90 et seq., 200 et seq.,
26 510, 512, 1194 and other sections, as well as the Wage Order.

27 161. Plaintiff is informed, believes, and thereon alleges that within four years of the
28 filing of this lawsuit, Defendants committed unfair and unlawful business acts including, but not

1 limited to, inter alia: (a) willfully refusing to pay Plaintiff and his fellow members of the Class
2 all of their earned wages and compensation, including overtime wages, failing to compensate
3 Plaintiff and his fellow members of the class all legally required overtime premium for all
4 overtime hours worked; (b) not permitting Plaintiff and his fellow members of the Class to take
5 all of their statutorily entitled rest periods; (c) not providing Plaintiff and his fellow members of
6 the Class the opportunity to take all of their statutorily entitled meal periods; (d) failing to pay
7 Plaintiff and his fellow members of the Class one hour of compensation at their regular rate of
8 pay, for each earned rest period not permitted and/or each earned meal period not provided; (e)
9 not timely paying Plaintiff and his fellow members of the Class all of their earned wages and
10 compensation; (f) failing to furnish to Plaintiff and his fellow members of the Class accurate
11 Labor Code § 226 compliant wage statements; (g) not timely paying Plaintiff and his fellow
12 members of the Class all of their earned wages, compensation and benefits immediately at the
13 termination of their employment or within seventy-two hours of them quitting; and/or (h) not
14 providing Plaintiff and his fellow members of the Class a written notice in accordance with
15 Labor Code § 2810.5; and (j) to abide by other provisions of the California Labor Code and Code
16 of Regulations, including, without limitation, Labor Code §§ 90 et seq., 200 et seq., 510, 512,
17 1194 and other sections, as well as the Wage Order. Such conduct by Defendants constitutes
18 unfair competition and unfair business practices, as such terms are described in Business and
19 Professions Code § 17200, et seq.

20 162. Pursuant to Business and Professions Code § 17203, the court is authorized to
21 make such orders or judgments as may be necessary to prevent the use or employment by any
22 such person or entity of any such practice which constitutes unfair competition or as may be
23 necessary to restore to any person in interest any money or property which may have been
24 acquired by means of such unfair competition.

25 163. Plaintiff is informed, believes, and thereon alleges that Defendants have violated
26 California labor law as detailed herein and, unless restrained and ordered to disgorge to Plaintiff
27 and his fellow members of the Class, as restitution, all ill-gotten revenue derived from
28 Defendants' unfair and unlawful business practices detailed herein, Defendants will continue to

1 violate Unfair Competition Law by engaging in the business practices violative of California
2 labor law as detailed hereinabove.

3 **PRAYER**

4 WHEREFORE, Plaintiffs and Plaintiff Class pray for judgment as follows:

5 1. That the Court determines this action may be maintained as a class action under
6 California Code of Civil Procedure §382;

7 2. For nominal damages;

8 3. For liquidated damages;

9 4. For compensatory damages;

10 5. For restitution of all monies due to Plaintiffs and Plaintiff Class, and disgorged
11 profits from the unlawful business practices of Defendants;

12 6. For waiting time penalties pursuant to Labor Code §203, on behalf of the
13 terminated or resigned employees;

14 7. For penalties pursuant to Labor Code sections 226, 226(e), 226.7, 512, 1194, and
15 1194.2;

16 8. For punitive damages in an amount deemed sufficient by the trier of fact to punish,
17 deter and make an example of the Defendants;

18 9. For interest accrued to date;

19 10. Injunctive relief, enjoining Defendants from engaging in the unlawful and unfair
20 business practices complained herein;

21 11. Declaratory relief, enjoining Defendant's practices as being unlawful and unfair
22 business practices within the meaning of Bus. & Prof. Code sections 17200, et seq., and declaring
23 Defendants have unlawfully treated Plaintiffs and Plaintiff Class, failed to pay all wages, including
24 minimum, regular, and overtime compensation in violation of California law, failed to pay wages
25 to former employees, failed to provide Plaintiffs and Plaintiff Class accurate itemized wage
26 statements upon payment of wages, failed to provide Plaintiffs and Plaintiff Class with a written
27 notice pursuant to Labor Code section 2810.5, provide and declaring the amounts of damages,
28 penalties, equitable relief, costs, and attorneys' fees Plaintiffs and Plaintiff Class are entitled to;

12 12. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226

1 and 1194;

2 13. For reasonable attorneys' fees pursuant to Labor Code sections 226, 1021.5, and
3 1194;

4 14. For leave to amend this complaint to add additional state law claims, should it be
5 necessary;

6 15. All applicable civil penalties permitted under the Labor Code Private Attorneys
7 General Act of 2004, Labor Code section 2698 *et seq.*, including but not limited to civil penalties
8 under Labor Code §§ 226.3, 558, 1197.1, 2802, 2699(f), and Wage Order 16;

9 16. For all such other and further relief as the Court may deem just and proper.

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff, proposed Class Representative, MIGUEL ZAMBRANO, individually and on
12 behalf of all those similarly situated members of the Class, hereby demand trial by jury in this
13 action.

14 **DENIS & RASI, PC**

15
16 Dated: July 6, 2022

By:



Paul Denis

Ethan Rasi

18 Attorneys for Plaintiff and putative
19 Class Representative, MIGUEL ZAMBRANO
20 individually, and on behalf of all others
21 similarly situated
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