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Superior Court of California
County of Fresno
By: A. Hoffman, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

SHAWN PAUL MARTINEZ, as an individual,
and on behalf of all others similarly situated,

Plaintiff,

v.

WEST VALLEY AVIATION, INC., a
California Corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.:25CECG01406_

Amended as a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)___

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

- (1) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, 1198);**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 512)**
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516);**
- (5) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (7) UNFAIR COMPETITION (BUS &
PROF CODE § 17200, *et seq.*);**
- (8) FAILURE TO PAY ALL AGREED-
UPON WAGES INCLUDING
BONUS WAGES ACCRUED
(LABOR CODE § § 221-223);**
- (9) FAILURE TO PROVIDE PAID
SICK LEAVE (LABOR CODE
§§233 AND 246.5);**

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**(10) FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS
EXPENSES (LABOR CODE § 2802);
AND**

**(11) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 et seq.).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Shawn Paul Martinez (hereinafter “Plaintiff”), as an individual, and on behalf of
2 all others similarly situated, hereby brings this First Amended Class and Representative Action
3 Complaint against West Valley Aviation, Inc.; and DOES 1 to 100, inclusive (collectively
4 “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff hereby brings this First Amended Class and Representative Action
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200 *et seq.*, Labor Code §§ 201-204, 221-223, 226 *et seq.*, 226.2, 226.7, 233, 246.5,
9 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698, 2802, and relevant Industrial
10 Welfare Commission Wage Orders (“IWC Wage Orders”), in addition to seeking declaratory
11 relief and restitution. This Complaint is brought pursuant to California Code of Civil Procedure
12 § 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code
13 because the amount in controversy exceeds this Court's jurisdictional minimum.

14 **VENUE**

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

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is a California resident. During the four years immediately preceding
23 the filing of the Complaint in this action and within the statute of limitations periods applicable
24 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
25 employee. Plaintiff was and is a victim of Defendants’ policies and/or practices complained of
26 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
27 §§ 201-204, 221-223, 226 *et seq.*, 226.2, 226.7, 233, 246.5, 510, 512, 516, 558, 1182.12, 1194,
28 1194.2, 1197, 1198, 2698, 2802 California Business and Professions Code § 17200 *et seq.*

1 (“Unfair Competition Law”), and relevant IWC Wage Orders, which sets employment standards
2 for the agricultural industries.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
5 continue to do) business in the aviation industry, employed Plaintiff within Fresno County and
6 the state of California and, therefore, were (and are) doing business in Fresno County and the
7 State of California.

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

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

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

25 8. At all times mentioned herein, Defendants, and each of them, were members of
26 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
27 and scope of, and in pursuance of said joint venture, partnership, and common enterprise. Further,
28 Plaintiff alleges that all Defendants were joint employers for all purposes towards Plaintiff and

all members of the Classes.

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff worked for Defendants as part of its ground crew from approximately January 2020 to approximately July 3, 2024. Plaintiff's tasks included loading planes with cargo – primarily fertilizer and/or chemicals. Before the fertilizer was loaded onto a plane or helicopter, Plaintiff was required to mix various compounds to create the finished fertilizer product. Because Defendants were paid by fertilized acre, Plaintiff and other non-exempt employees were pushed to rush mixing and discouraged from taking time to don necessary PPE.

10. Plaintiff was generally scheduled to work seven days a week during the June through October peak season, Monday through Sunday, on 10-15 hour shifts, from 3 p.m. or 4 p.m. to 8 a.m. or 9 a.m., but he did not have a regular schedule. Off season Plaintiff generally worked 8 hour shifts, Monday through Friday, from approximately 3 p.m. to 4 p.m. through 8 a.m. or 9 a.m. However, shifts were subject to change such that Plaintiff and other non-exempt employees were required to call/check in almost every day prior to beginning their shift to check for scheduling adjustments, but were not reimbursed for this necessary, for work-related use. In addition, Plaintiff and other non-exempt employees were occasionally required to travel between Defendants' Firebaugh and Five Point locations, but were not reimbursed for mileage, and often were forced to skip meal and rest periods during the high season due to work volume and exigencies. These deprivations were less ubiquitous during the off season, but still periodically occurred. When meal periods were taken, they were frequently interrupted by work-related communications and tasks.

11. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and other non-exempt employees were not paid for all hours worked as Defendants would not accurately keep track of their actual hours worked. Upon information and belief, the time records maintained by Defendants were not reflective of the actual number of hours that Plaintiff and other non-exempt employees actually worked. Plaintiff generally began the work day at the Firebaugh location. Plaintiff had to check every day prior to his scheduled start time to verify his schedule. Also, Plaintiff and other employees had to spend approximately 2-3 minutes getting

1 temperature checks prior to clocking in during the time when mandatory COVID precautions
2 were being enforced by Defendants. Plaintiff estimates that on average, he and other non-exempt
3 employees were not compensated for at least 35 minutes of work per week during the peak season,
4 and 25 minutes per week during the off season.

5 12. Furthermore, Plaintiff and other non-exempt employees worked great quantities
6 of overtime hours during peak season, but did not receive all overtime compensation equal to one
7 and one-half times their regular rates of pay for all overtime hours worked or all double time pay
8 for hours worked in excess of 12 in any given day or in excess of 8 on their seventh day of work
9 in any given workweek. Upon information and belief, Defendants intentionally excluded at least
10 5 minutes per day worked by Plaintiff and other non-exempt employees due to off the clock work.
11 Plaintiff and other non-exempt employees worked overtime seven days a week during peak
12 season and Defendants failed to ensure that Plaintiff and other non-exempt employees were being
13 paid at least the minimum wage for all hours actually worked, and failed to ensure that Plaintiff
14 and other non-exempt employees received proper overtime wages for all overtime hours worked,
15 in compliance with IWC Wage Orders.

16 13. In addition, Plaintiff and, on information and belief, other non-exempt employees
17 also agreed to be paid on a piece-rate basis for loading 50-lb. bags of sulphur, in addition to their
18 regular hourly wages, but did not receive all piece rate compensation promised for this additional
19 work.

20 14. Plaintiff and other non-exempt employees were not authorized to take all legally
21 required rest periods. Most, (if not all) days Plaintiff and other non-exempt employees missed all
22 rest periods because Defendants would either interrupt these periods or work schedules and
23 exigencies did not permit employees to take any rest periods. Indeed, Plaintiff does not recall ever
24 being authorized to take a rest period. Despite Defendants' failure to authorize and permit Plaintiff
25 and other non-exempt employees to take all lawful paid rest periods, due to their uniform and
26 unlawful practices, Defendants never provided Plaintiff and other non-exempt employees with an
27 hour of pay at their regular rate for each rest period violation as required by Labor Code § 226.7.
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1 Upon information and belief, during at least a portion of the class period, Defendants maintained
2 no payroll code or another mechanism for the payment of rest period premiums in the event
3 Plaintiff and other non-exempt employees were not authorized to take lawful rest periods.

4 15. Defendants did not provide Plaintiff and other non-exempt employees with legally
5 compliant meal periods when they worked shifts in excess of 5.0 hours. Approximately daily,
6 Defendants prevented Plaintiff and other employees from taking a full, uninterrupted 30-minute
7 meal period by requiring Plaintiff and other employees to complete plane loading/unloading
8 before starting the meal period, or would direct them to drive between locations at the time they
9 should be taking their meal period. Plaintiff and other non-exempt employees routinely worked
10 shifts in excess of 10.0 hours. On those dates where Plaintiff and other non-exempt employees
11 worked shifts in excess of 10.0 hours, Defendants also prevented them from taking a full 30
12 minutes by interrupting their meal period wither work-related issues or by failing to authorize a
13 second meal period by the end of the tenth hour in any given day when their shifts exceeded ten
14 hours. Despite Defendants' failure to provide Plaintiff and other non-exempt employees with all
15 lawful meal periods due to their uniform and unlawful practices, Defendants never provided
16 Plaintiff and other non-exempt employees with an hour of pay at their regular rate for each meal
17 period violation as required by Labor Code § 226.7.

18 16. On information and belief, Plaintiff and other similarly situated non-exempt
19 employees did not execute meal period waivers.

20 17. Additionally, Plaintiff and other aggrieved employees were constantly required to
21 be "on-call" at all times, and frequently were not informed of their shift hours on any given day
22 until just a few hours before that shift commenced, but were not paid all minimum wages,
23 overtime, and/or double time hours for this necessary time worked. Plaintiff and other aggrieved
24 employees would essentially be on-call almost every morning, and were made to use their
25 personal devices to call in phone on a daily basis as his scheduled hours were frequently changed
26 according to Defendants' needs. As a result of Defendants' policies/practices regarding this on-
27 call work, Defendants failed to pay all requisite minimum, overtime, and/or double time wages
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1 owed to Plaintiff and other aggrieved employees.

2 18. Furthermore, Defendants failed to adequately reimburse Plaintiff and other non-
3 exempt employees for all reasonable and necessary work expenditures, including but not limited
4 to, requiring Plaintiff and other non-exempt employees to use personal cellular phones for
5 necessary work-related purposes, and requiring Plaintiff and other non-exempt employees to
6 drive their personal vehicles between work locations while on shift. Plaintiff was not ever
7 provided any reimbursement for these necessary uses.

8 19. Although Defendants provided paid sock leave on paper, Defendants regularly
9 denied Plaintiff and other non-exempt employees the ability to use it, as permission to use this
10 leave was routinely denied when requested.

11 20. Defendants have maintained inaccurate payroll records, failed to timely pay all
12 wages owed to employees, and failed to timely pay separating employees at the time of their
13 separation, and issued inaccurate wage statements. This is in part a result of Defendants' failure
14 to accurately compensate Plaintiff and other non-exempt employees for all minimum and
15 overtime wages, and failure to pay premium pay for failing to provide all required meal periods
16 and authorize all rest periods.

17 21. Defendants failed to issue to Plaintiff and other non-exempt employees accurate
18 itemized statements in writing showing (1) gross wages earned, (2) total hours worked by the
19 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee
20 is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written
21 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
22 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
23 only the last four digits of his or her social security number or an employee identification number
24 other than a social security number, (8) the name and address of the legal entity that is the
25 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
26 number of hours worked at each hourly rate by the employee.
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28 22. Defendants had a policy of failing to permit and authorize Plaintiff and other non-

1 exempt employees to use their accrued paid sick leave. Throughout his employment, Defendants
2 denied Plaintiff the right to use his accrued paid sick leave. On the days when Plaintiff was sick,
3 Defendants required Plaintiff to show up to work.

4 23. Finally, Defendants failed to conform to the requirements of Labor Code § 2810.5
5 by failing to provide Plaintiff and other aggrieved employees written notices, in the language
6 normally used to communicate employment related information to the employees, containing
7 information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part
8 of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the
9 employer; v) the address of the legal entity that is the employer; vi) the telephone number of the
10 employer; vii) identifying information for the employer's workers' compensation insurance
11 carrier; and viii) information informing the employee of their right to accrue and use paid sick
12 leave. Despite maintaining an obligation to provide these disclosures to Plaintiff and other
13 aggrieved employees, Defendants failed to do so, in violation of Labor Code § 2810.5.

14 **CLASS ACTION ALLEGATIONS**

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

- 17 a. The Minimum Wage Class consists of all current and former non-exempt
18 employees of Defendants who performed in California and were subject to
19 Defendants' timekeeping systems and/or practices during the four years
20 immediately preceding the filing of this lawsuit through the present.
- 21 b. The Overtime Wage Class consists of all current and former non-exempt
22 employees of Defendants who performed work for in California and who worked
23 overtime hours during the four years immediately preceding the filing of this
24 lawsuit through the present.
- 25 c. The Agreed-Upon Wage Class consists of all of Defendants' current and former
26 non-exempt employees in California who were paid less than all agreed-upon
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wages owed, including bonuses accrued, during the four years immediately preceding the filing of this action through the present.

d. The Rest Period Class consists of all current and former non-exempt employees of Defendants who performed work in California and who worked at least one shift in excess of 3.5 hours during the four years immediately preceding the filing of this lawsuit through the present.

e. The Meal Period Class consists of all current and former non-exempt employees of Defendants who performed work in California and (i) worked at least one shift in excess of 5.0 hours without a meal period of at least 30 minutes in duration commencing prior to the conclusion of the fifth hour of work, and who do not have a corresponding meal period premium payment made for such shifts and/or (ii) worked at least one shift in excess of 10.0 hours without a second meal period of at least 30 minutes in duration commencing prior to the conclusion of the tenth hour of work, and who do not have a corresponding meal period premium payment made for such shifts during the four years preceding the filing of this lawsuit through the present.

f. The Employee Expense Class consists of all of Defendants in California who were not reimbursed for expenses in the performance of their job duties, including, but not limited to cell phone expense, and mileage for driving between work locations during the four years immediately preceding the filing of this lawsuit to the present.

g. The Wage Statement Class consists of all members of the Rest Period Class, Minimum Wage Class, Overtime Class, and/or Meal Period Class who received a wage statement from Defendants during the one year immediately preceding the filing of this lawsuit through the present.

h. The Waiting Time Class consists of all of Defendants' formerly employed non-exempt employees who performed work in California and were subject to

Defendants' timekeeping systems and/or practices, during the three years immediately preceding the filing of this lawsuit through the present.

- i. The Sick Leave Class consists of all of current and former non-exempt employees of Defendants who performed work in California who worked at least 90 days in a one-year period during the four years immediately preceding the filing of this lawsuit through the present.

25. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than thirty (30) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 and relevant IWC Wage Orders by requiring members of the Overtime Wage Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Minimum Wage Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants provided all legally compliant rest periods to members of the

Rest Period Class pursuant to Labor Code §§ 226.7 and 516;

- vi. Whether Defendants failed to pay the members of the Agreed-Up Upon Wage Class all agreed-upon wages including bonuses accrued, pursuant to Labor Code §§ 221-223;
- vii. Whether Defendants failed to reimburse members of the Employee Expense Class for business expenditures necessarily incurred in the performance of their duties;
- viii. Whether Defendants provided accurate, itemized wage statements to members of the Classes;
- ix. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were lawful; and
- x. Whether Defendants permitted and authorized members of the Sick Leave Class to use their accrued paid sick leave.

27. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform timekeeping policies and practices, meal and rest period policies and practices, non-reimbursement policies and practices, wage statement policies and practices, and the policies and practices regarding the timely payment of final wages. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

28. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was subject to Defendants' meal/rest period and timekeeping policies and practices, was subjected to Defendants' unlawful failure to reimburse

business expenses, was provided inaccurate wage statements, and was not paid all wages earned at the time of his separation of employment.

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

30. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be

dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

32. Relevant IWC Wage Orders and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and the Minimum Wage Class for all hours actually worked including, but not limited to, all hours he was subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and relevant IWC Wage Orders.

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

34. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but not limited to, unpaid wages and lost interest in an amount to be established at trial, and are

entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and relevant IWC Wage Orders.

35. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, and attorneys' fees and costs of suit according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

36. Plaintiff re-allege and incorporates by reference all previous paragraphs.

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

38. At all times relevant herein, Defendants were required to properly compensate Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and relevant IWC Wage Orders requiring an employer to pay overtime wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth in the Wage Order.

39. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, relevant IWC Wage Orders, and Code of Civil Procedure § 1021.5.

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THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

40. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

41. Plaintiff is informed and believe, and based thereon allege, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class with all legally compliant meal periods in accordance with the mandates of the California Labor Code and relevant IWC Wage Orders. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Meal Period Class at their respective regular rate of pay, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

42. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, as well as statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, relevant IWC Wage Orders, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

44. Relevant IWC Wage Orders and California Labor Code §§ 226.2, 226.7 and 516 establish the right of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest time for each four (4) hour period worked, or major fraction thereof.

45. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all legally compliant rest periods.

46. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid rest period wages and the amount of rest period premiums owing, including interest thereon, as well as statutory penalties, civil penalties, and costs of suit according to California Labor Code §§226.2, 226.7, 516, 558, and

Civil Code §§ 3287(b) and 3289.

FIFTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

47. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

48. This cause of action is brought pursuant to Labor Code §§ 201-203, which requires an employer to pay all wages immediately at the time of termination of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

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

50. Defendants' willful failure to timely pay Plaintiff and the Waiting Time Class their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

1 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
3 and the Wage Statement Class with complete and accurate wage statements reflecting the accurate
4 number of hours worked, and meal & rest period premiums in violation of Labor Code § 226 et
5 seq.

6 53. Defendants' failures in furnishing Plaintiff and the Wage Statement Class with
7 complete and accurate itemized wage statements resulted in actual injury, as said failures led to,
8 among other things, the non-payment of all minimum wages, overtime wages, meal and rest
9 period premium wages, and deprived them of the information necessary to identify the
10 discrepancies in Defendants' reported data.

11 54. Defendants' failures create an entitlement to recovery by Plaintiff and the Wage
12 Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226
13 et seq., including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit
14 according to California Labor Code § 226 et seq.

15 **SEVENTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION**

17 **(AGAINST ALL DEFENDANTS)**

18 55. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

19 56. Defendants have engaged and continue to engage in unfair and/or unlawful
20 business practices in California in violation of California Business and Professions Code § 17200
21 et seq., by failing to pay Plaintiff and the Classes all minimum and overtime wages, provide all
22 required meal and rest periods, or pay premium payments in lieu thereof, failing to furnish
23 accurate, itemized wage statements, failing to reimburse for necessary business expenses, and
24 willfully failing to timely pay Plaintiff and members of the Waiting Time class all final wages
25 due upon separation of employment.

26 57. Defendants' utilization of these unfair and/or unlawful business practices deprived
27 Plaintiff and continues to deprive members of the Classes of compensation to which they are
28 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage

over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

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

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

60. Plaintiff is compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

EIGHTH CAUSE OF ACTION

FAILURE TO PAY ALL AGREED-UPON WAGE

(AGAINST ALL DEFENDANTS)

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

62. This cause of action is brought pursuant to Labor Code §§ 204 and 221-223 which provide that all non-exempt employees are entitled to be paid all agreed-upon wages owed, inclusive of bonus wages accrued and provide a right of action for the failure to pay all agreed-upon wages owed for all work performed.

63. At all times relevant herein, Defendants were required to properly compensate Plaintiff and the members of the Agreed-Upon Wage Class for all hours worked at the agreed-upon wages, inclusive of bonus wages accrued, pursuant to California Labor Code §§ 221-223. At all relevant times herein, Defendants required Plaintiff and the members of the Agreed-Upon Wage Class to remain under Defendants' control and perform work without paying them all agreed-upon wages owed, including bonus wages accrued, which resulted in Plaintiff and the members of the Agreed-Upon Wage Class earning less than all agreed-upon wages owed for their

1 work. This pattern and practice by Defendants of failing to pay all agreed-upon wages owed,
2 inclusive of bonus wages for all work performed violates the Labor Code and constitutes unjust
3 enrichment.

4 64. Pursuant to Labor Code § 204, all wages earned by any person in any employment
5 are due and payable twice during each calendar month, on days designated in advance by the
6 employer at the regular pay days. All wages earned for labor in excess of the normal work period
7 shall be paid no later than the payday for the next regular payroll period.

8 65. Pursuant to Labor Code § 204.1, commission wages paid to any person by an
9 employer are due and payable once during each calendar month on a day designated in advance
10 by the employer as the regular payday.

11 66. Plaintiff and other non-exempt employees earned agreed-upon wages including
12 bonus wages through their employment.

13 67. Defendants have refused to pay all of Plaintiff's agreed-upon wages including
14 bonus wages accrued. Defendants' failure to pay all agreed-upon wages including bonus wages
15 accrued was intentional and without cause or other reason,

16 68. The foregoing practices and policies are unlawful and create entitlement to
17 recovery by Plaintiff and the members of the Agreed-Up Upon Wage Class in a civil action for the
18 unpaid amount of agreed-upon wages owing, including interest thereon, as well as statutory
19 penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 318.5, 218.6, 221,
20 and 558, and California Code of Civil Procedure § 1021.5.

21 **NINTH CAUSE OF ACTION**

22 **FAILURE TO PROVIDE PAID SICK LEAVE**

23 **(AGAINST ALL DEFENDANTS)**

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

25 70. This cause of action is brought pursuant to Labor Code §§ 233 and 246.5, which
26 provide that an employer shall not deny an employee the right to use sick leave, and Labor Code
27 §233 provides a private right of action for the failure to permit and authorize exercise of accrued
28 paid sick leave.⁶³ At all times relevant herein, Defendants were required to permit and authorize

1 Plaintiff and members of the Sick Leave Class to accrue and exercise their accrued paid sick leave
2 pursuant to California Labor Code §§ 233 and 246.5.

3 71. Due to Defendants' unlawful policy and practice of preventing Plaintiff and
4 members of the Sick Leave Class from using their accrued paid sick leave, Defendants have
5 violated California Labor Code §§ 233 and 246.5.

6 72. The foregoing policies and practices are unlawful and create entitlement to
7 recovery by Plaintiff and the Sick Leave Class in a civil action for damages and attorneys' fees
8 and costs, according to California Labor Code § 233 and Civil Code §§ 3287 and 3289.

9 **TENTH CAUSE OF ACTION**

10 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

11 **(AGAINST ALL DEFENDANTS)**

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

13 74. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
14 states that "an employer shall indemnify his or her employees for all necessary expenditures or
15 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
16 his or her obedience to the directions of the employer..."

17 75. Due to Defendants' unlawful policy and practice of requiring non-exempt
18 employees to use personal cell phones and vehicles, and failing to reimburse employees for this
19 work-related cell phone usage and mileage driving between work locations in the performance of
20 their work duties, Defendants have violated Labor Code § 2802.

21 76. Plaintiff and the members of the Employee Expense Class are entitled to attorneys'
22 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

23 77. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
24 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
25 Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue
26 from the date on which they incurred the initial necessary expenditure.

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ELEVENTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(AGAINST ALL DEFENDANTS)

78. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though fully set forth herein.

79. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 551-552, 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;

- 1 c. Failing to authorize and permit all legally required rest periods, and failure to
2 pay rest period premium wages, to Plaintiff, the Rest Period Class, and other
3 aggrieved employees at the regular rate of compensation in violation of Labor
4 Code §§ 226.7, 516, and 558;
- 5 d. Failing to provide all legally required meal periods, and failure to pay meal
6 period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved
7 employees at the regular rate of compensation in violation of Labor Code §§
8 226.7, 512, and 1198;
- 9 e. Failing to reimburse Plaintiff, the Employee Expense Class and other aggrieved
10 employees for necessary business expenditures incurred by Plaintiff, the
11 Employee Expense Class and other aggrieved employees in violation of Labor
12 Code §§ 2800, 2802 and 2804;
- 13 f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved
14 employees with complete, accurate, itemized wage statements in violation of
15 Labor Code § 226;
- 16 g. Failing to timely pay all final wages and compensation earned by Plaintiff, the
17 Waiting Time Class, and other aggrieved employees at the time of separation
18 in violation of Labor Code §§ 201, 202, and 203;
- 19 h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least
20 twice during each calendar month in violation of Labor Code § 204;
- 21 i. Failing to permit and authorize Plaintiff and other non-exempt to exercise the
22 use of their accrued paid sick leave days in violation of Labor Code § 245.5,
23 246, and 248.5;
- 24 j. Failing to provide legally mandated disclosures and/or written notices
25 regarding the terms of employment of Plaintiff and other aggrieved employees
26 in violation of Labor Code § 2810.5;
- 27 k. Failing to pay all agreed-upon wages, including bonus wages accrued, to
28 Plaintiff and other aggrieved employees, in violation of Labor Code §§ 204

and 221-223;

1. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174 and 1198.

80. On March 21, 2025, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 79 (a)-(l). Now that more than sixty-five days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

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

PRAYER

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

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1198 and relevant IWC Wage Orders;
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and relevant IWC Wage Orders;

1 6. Upon the Third Cause of Action, for compensatory, consequential, general and
2 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

3 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
4 special damages according to proof pursuant to Labor Code §§ 226.2, 226.7, 516, and 558;

5 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
6 Labor Code §§ 201-203;

7 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
8 226;

9 10. Upon the Seventh Cause of Action, for restitution to Plaintiff of all money and/or
10 property unlawfully acquired by Defendants by means of any acts or practices declared by this
11 Court to be in violation of Business and Professions Code § 17200 *et seq.*;

12 11. Upon the Eighth Cause of Action for compensatory, consequential, general and
13 special damages according to proof pursuant to Labor Code §§ 204 and 221-223;

14 12. Upon the Ninth Cause of Action for compensatory, consequential, general and
15 special damages according to proof pursuant to Labor Code § 233;

16 13. Upon the Tenth Cause of Action, for compensatory, consequential, general, and
17 special damages according to proof pursuant to Labor Code § 2802;

18 14. Upon the Eleventh Cause of Action, Upon the Ninth Cause of Action, for (1)
19 \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
20 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
21 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
22 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
23 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
24 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
25 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
26 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each
27 subsequent violation per employee per pay period for the violations of the Labor Code Sections
28 cited in Labor Code § 2699.5;

1 15. Prejudgment interest on all due and unpaid wages pursuant to California Labor
2 Code § 218.6 and Civil Code §§ 3287 and 3289;

3 16. On all causes of action, for attorneys' fees and costs as provided by Labor Code
4 §226, and Code of Civil Procedure § 1021.5; and

5 17. For such other and further relief the Court may deem just and proper.
6
7

8 Dated: June 9, 2025

Respectfully submitted,
STANSBURY BROWN LAW, PC

9
10 By: _____


Daniel J. Brown
Kathleen J. Becket
Attorneys for Plaintiff
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15 **DEMAND FOR JURY TRIAL**

16 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.
17

18
19 Dated: June 9, 2025

Respectfully submitted,
STANSBURY BROWN LAW, PC

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21 By: _____


Daniel J. Brown
Kathleen J. Becket
Attorneys for Plaintiff
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PROOF OF SERVICE

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

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 2610 ½ Abbot Kinney Blvd. Venice, CA 90291

On June 9, 2025, I served the document listed below on the parties in this action as follows:

**FIRST AMENDED CLASS AND REPRESENTATIVE
ACTION COMPLAINT**

☐ (BY MAIL) I placed such envelope on the above date, with postage fully prepaid, for deposit in the U.S. Postal Service at my place of business at Venice, California, following the ordinary business practices of my place of business. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mail with the U.S. Postal Service. Under that practice, such correspondence is deposited with the U.S. Postal Service the same day it is collected and processed in the ordinary course of business.

☒ (BY EMAIL or ELECTRONIC TRANSMISSION) By electronically transmitting the document(s) listed above to the email address(es) of the person(s) set forth on the attached service list from the email address assistant@stansburybrownlaw.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. Service by e-mail was made pursuant to agreement of the parties, confirmed in writing, or as an additional method of service as a courtesy to the parties or pursuant to Court Order. See Cal. R. Ct. R. 2.260.

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

Executed on June 9, 2025, at South Gate, CA.

Laura Romero

Laura Romero

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