

BIBIYAN LAW GROUP, P.C.

David D. Bibiyan (SBN 287811)

david@tomorrowlaw.com

Vedang J. Patel (SBN 328647)

vedang@tomorrowlaw.com

Megan R. Lazar (SBN 315007)

megan@tomorrowlaw.com

1460 Westwood Boulevard,

Los Angeles, California 90024

Tel: (310) 438-5555; Fax: (310) 300-1705

Attorneys for Plaintiff, EDGARDO ZAMUDIO,
on behalf of himself and all others similarly situated
and aggrieved

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

EDGARDO ZAMUDIO, an individual, and on
behalf of all others similarly situated and
aggrieved

Plaintiff,

v.

PRECISION MILLWORK, LLC., a California
limited liability company; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 22STCV21972

[Assigned for all purposes to the Hon. William
F. Highberger in Dept. 10]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. FAILURE TO INDEMNIFY;
9. UNFAIR COMPETITION;
10. CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS' GENERAL ACT OF 2004 FOR VIOLATIONS OF LABOR CODE SECTIONS 210, 226.3, 558, 1174.5, 1197.1 AND 2699, *et seq.*

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff EDGARDO ZAMUDIO (“Plaintiff”), on behalf of Plaintiff and all others similarly situated and aggrieved, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against PRECISION MILLWORK, LLC., and any of its respective subsidiaries or affiliated companies within the State of California (“Precision” and, with DOES 1 through 100, as further defined below, “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants (“Class Members”).

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Defendants, as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 245, *et seq.*, Labor Code section 2802, restraints on competition, whistleblowing and freedom of speech on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

PARTIES

A. Plaintiff

3. Plaintiff EDGARDO ZAMUDIO is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon allege that Defendants employed Plaintiff EDGARDO ZAMUDIO as a non-exempt employee, with duties that included, but were not limited to, servicing operating forklifts, moving pallets of merchandise, loading, and unloading company trucks, installing hinges on doors, operating machinery responsible for cutting wood. Plaintiff is informed and believes, and based thereon alleges that Plaintiff EDGARDO ZAMUDIO worked for Defendants from approximately October of 2017 through approximately August of 2020.

1 **B. Defendants**

2 4. Plaintiff is informed and believes and based thereon allege that Defendant Precision
3 is, and at all times relevant hereto was, a limited liability company organized and existing under and
4 by virtue of the laws of the State of Delaware and doing business in the County of Los Angeles,
5 State of California.

6 5. The true names and capacities, whether individual, corporate, associate, or otherwise,
7 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
8 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
9 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
10 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
11 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
12 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
13 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
14 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
15 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
16 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
17 include Precision, and any of their parent, subsidiary, or affiliated companies within the State of
18 California, as well as DOES 1 through 100 identified herein.

19 **JOINT LIABILITY ALLEGATIONS**

20 6. Plaintiff is informed and believes and based thereon alleges that all the times
21 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
22 representative, joint venture or co-conspirator of each of the other defendants, either actually or
23 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
24 employment, joint venture, and conspiracy.

25 7. All of the acts and conduct described herein of each and every corporate defendant
26 was duly authorized, ordered, and directed by the respective and collective defendant corporate
27 employers, and the officers and management-level employees of said corporate employers. In
28 addition thereto, said corporate employers participated in the aforementioned acts and conduct of

1 their said employees, agents, and representatives, and each of them; and upon completion of the
2 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
3 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
4 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
5 aforementioned corporate employees, agents and representatives.

6 8. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
7 thereon alleges that Defendants, and each of them, are joint employers.

8 **JURISDICTION**

9 9. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
10 of Civil Procedure section 410.10.

11 10. Venue is proper in Los Angeles County, California pursuant to Code of Civil
12 Procedure sections 392, et seq. because, among other things, Los Angeles County is where the
13 causes of action complained of herein arose; the county in which the employment relationship
14 began; the county in which performance of the employment contract, or part of it, between Plaintiff,
15 or some of them, and Defendants was due to be performed; the county in which the employment
16 contract, or part of it, between Plaintiff, or some of them, and Defendants was actually performed;
17 and the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged
18 herein have a direct effect on Plaintiff and Class Members in Los Angeles County, and because
19 Defendants employ numerous Class Members in Los Angeles County.

20 11. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
21 Defendants during the applicable statutory period and suffered one or more of the Labor Code
22 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
23 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
24 Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”) plus
25 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
26 employees of Defendants during the Civil Penalty Period.

27 12. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
28 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*

1 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
2 PAGA allegations described herein is not required.

3 13. During the period beginning one (1) year preceding the provision of notice to the
4 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
5 Defendants violated, inter alia, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
6 226.3, 226.7, 232, 232.5, 245, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1,
7 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

8 14. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
9 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
10 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
11 specified in Labor Code section 2699.3.

12 15. On or around August 4, 2022, Plaintiff provided written notice pursuant to Labor
13 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
14 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
15 as well as by certified mail, with return receipt requested to Defendants, and each of them.

16 16. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
17 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
18 calendar days of the August 4, 2022 postmarked date of the herein-described notice sent by Plaintiff
19 to the LWDA and Defendants.

20 **FACTUAL BACKGROUND**

21 17. For at least four (4) years prior to the filing of this action and continuing to the
22 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
23 some of them, in violation of California state wage and hour laws as a result of, without limitation,
24 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and
25 seven consecutive work days in a work week without being properly compensated for hours worked
26 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
27 worked on the seventh consecutive work day in a work week by, among other things, failing to
28 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay; to

1 clock out for meal periods and continue working; editing and/or manipulation of time entries to
2 show less hours than actually worked to the detriment of Plaintiff and Class Members.

3 18. For at least four (4) years prior to the filing of this Action and continuing to the
4 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members,
5 or some of them, in violation of California state wage and hour laws as a result of, among other
6 things, at times, failing to accurately track and/or pay for all minutes actually worked at the proper
7 overtime rate of pay; to clock out for meal periods and continue working; editing and/or
8 manipulation of time entries to show less hours than actually worked to the detriment of Plaintiff
9 and Class Members.

10 19. For at least four (4) years prior to the filing of this Action and continuing to the
11 present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them,
12 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
13 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
14 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
15 for such unprovided meal periods as required by California wage and hour laws.

16 20. For at least four (4) years prior to the filing of this action and continuing to the
17 present, Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or
18 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major
19 fraction thereof and failed to provide compensation for such unprovided rest periods as required by
20 California wage and hour laws.

21 21. For at least three (3) years prior to the filing of this action and continuing to the
22 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the
23 full amount of their wages owed to them upon termination and/or resignation as required by Labor
24 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
25 minimum wages, and premium wages.

26 22. For at least one (1) year prior to the filing of this Action and continuing to the present,
27 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
28 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages

1 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
2 hours worked at each hourly rate; the name and address of the legal entity that is the employer; and
3 other such information as required by Labor Code section 226, subdivision (a). As a result thereof,
4 Defendants have further failed to furnish employees with an accurate calculation of gross and gross
5 wages earned, as well as gross and net wages paid.

6 23. For at least one (1) year prior to the filing of this action and continuing to the present,
7 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full
8 amount of their wages for labor performed in a timely fashion as required under Labor Code section
9 204.

10 24. For at least three (3) years prior to the filing of this action and continuing to the
11 present, Defendants have, at times, failed to indemnify Class Members, or some of them, for the
12 costs incurred in mileage and/or gas costs incurred in driving personal vehicles for work-related
13 purposes and using cellular phones for work-related purposes.

14 25. At all relevant times mentioned herein, Defendants had and have a policy or practice
15 of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of
16 California in violation of California state wage and hour laws as a result of, without limitation,
17 Plaintiff and other Aggrieved Employees working over eight (8) hours per day, forty (40) hours per
18 week, and seven consecutive work days in a work week without being properly compensated for
19 hours worked in excess of (8) hours per day in a work day, forty (40) hours per week in a work
20 week, and/or hours worked on the seventh consecutive work day in a work week by, among other
21 things, failing to accurately track and/or pay for all minutes actually worked at the proper overtime
22 rate of pay; to clock out for meal periods and continue working; editing and/or manipulation of time
23 entries to show less hours than actually worked to the detriment of Plaintiff and other Aggrieved
24 Employees.

25 26. At all relevant times mentioned herein, Defendants had and have a practice or policy
26 of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours
27 worked or otherwise under Defendants' control as a result of, without limitation, failing to
28 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay; to

1 clock out for meal periods and continue working; editing and/or manipulation of time entries to
2 show less hours than actually worked to the detriment of Plaintiff and other Aggrieved Employees.

3 27. At all relevant times mentioned herein, Defendants had and have a policy or practice
4 of failing to provide Plaintiff and other Aggrieved Employees full, timely thirty (30) minute
5 uninterrupted meal period for days on which they worked more than five (5) hours in a work day
6 and a second thirty (30) minute uninterrupted meal period for days on which they worked in excess
7 of ten (10) hours in a work day, and failing to provide compensation for such unprovided meal
8 periods as required by California wage and hour laws.

9 28. At all relevant times mentioned herein, Defendants had and have a policy or practice
10 of failing to authorize and permit Plaintiff and other Aggrieved Employees, or some of them, to take
11 rest periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and
12 failed to provide compensation for such unprovided rest periods as required by California wage and
13 hour laws. As such, Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and
14 other Aggrieved Employees are entitled to relief under, without limitation, Labor Code section
15 226.7. However, Plaintiff is informed and believes that those premium payments under Labor Code
16 section 226.7 were not made, either, for these non-compliant rest periods, either at all or at the proper
17 regular rate of pay. Defendants would thus be liable for civil penalties pursuant to Labor Code
18 sections 558 and 2699 for both failing to authorize the taking of compliant rest periods, as required
19 by California wage and hour laws.

20 29. At all relevant times mentioned herein, Defendants had and have a policy or practice
21 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
22 Plaintiff and other Aggrieved Employees with itemized wage statements that accurately reflect gross
23 wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable
24 hourly rates in effect during the pay period and the corresponding number of hours worked at each
25 hourly rate by the employee; the legal name of the employer and/or the name and address of the
26 legal entity securing the employer's services if the employer is a farm labor contractor; and other
27 such information as required by Labor Code section 226, subdivision (a).

28 30. At all relevant times mentioned herein, Defendants had and have a policy or practice

1 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
2 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
3 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
4 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
5 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiff and other
6 Aggrieved Employees.

7 31. At all relevant times mentioned herein, Defendants had and have a policy or practice
8 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages
9 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
10 wages, minimum wages, and premium wages as required by Labor Code sections 201, 202, and 203.

11 32. At all relevant times mentioned herein, Defendants have had a policy or practice of
12 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
13 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred in mileage and/or gas
14 costs incurred in driving personal vehicles for work-related purposes and using cellular phones for
15 work-related purposes, as required by Labor Code section 2802.

16 33. At all relevant times mentioned herein, Defendants have had a policy or practice of
17 failing to comply with the notice requirements of Labor Code section 2810.5 (i.e., the Wage Theft
18 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
19 Employees with the rates of pay and overtime rates of pay applicable to their employment;
20 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
21 name, address, and telephone number of the workers' compensation insurance carrier; information
22 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
23 under Labor Code section 2810.5.

24 34. At all relevant times mentioned herein, Defendants have had a policy or practice of
25 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
26 Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of
27 any calendar month shall be paid for between the 16th and 26th day of the month during which the
28 labor was performed, and labor performed between the 16th and the last day, inclusive of any

1 calendar month, shall be paid for between the 1st and 10th day of the following month.”

2 35. At all relevant times mentioned herein, Defendants had and have a policy or practice
3 of preventing Plaintiff and/or Aggrieved Employees from using or disclosing the skills, knowledge
4 and experience they obtained at Defendants for purposes of competing with Defendants, including,
5 without limitation, preventing Employees from disclosing their wages in negotiating a new job with
6 a prospective employer, and from disclosing who else works at Defendants and under what
7 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
8 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
9 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor
10 Code sections 232, 232.5, and 1197.5, subdivision (k).

11 36. Defendants had and have a policy or practice of preventing Plaintiff and/or other
12 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
13 to their managers or outside to private attorneys or government officials, among others, in violation
14 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
15 1102.5. In addition, Plaintiff is informed and believes that Defendants’ herein-described policies
16 and/or practices prevent Plaintiff and/or other Aggrieved Employees from disclosing information
17 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
18 of Labor Code section 232 and 232.5.

19 37. Defendants had and have a policy or practice of preventing Plaintiff and/or other
20 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
21 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
22 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,
23 subdivision (k). Plaintiff is informed and believes that this lawful conduct includes the exercise of
24 Plaintiff’s and/or other Aggrieved Employee’s constitutional rights of freedom of speech and
25 economic liberty.

26 38. Plaintiff, on their own behalf and on behalf of Class Members, brings this action
27 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
28 510, 512, 1194, 1194.2, 1197, 2802, *et al.*, and California Code of Regulations, Title 8, section

1 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and
2 rest periods, failure to pay timely wages, waiting time penalties, wage statement penalties, failure
3 to indemnify work-related expenses, other such provisions of California law, and reasonable
4 attorneys' fees and costs.

5 39. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
6 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
7 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
8 appropriate and effective means to prevent further violations, as well as all monies owed but
9 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
10 restitution of amounts owed.

11 40. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
12 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
13 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
14 Employees pursuant to PAGA.

15 **CLASS ACTION ALLEGATIONS**

16 41. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
17 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current
18 and former non-exempt employees of Defendants within the State of California at any time
19 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice
20 of the class action is provided to the class (collectively referred to as "Class Members").

21 42. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
22 to amend or modify the class description with greater specificity, further divide the defined class
23 into subclasses, and to further specify or limit the issues for which certification is sought.

24 43. This action has been brought and may properly be maintained as a class action under
25 the provisions of Code of Civil Procedure section 382 because there is a well-defined community
26 of interest in the litigation and the proposed Class is easily ascertainable.

27 **A. Numerosity**

28 44. The potential Class Members as defined are so numerous that joinder of all the

1 members of the Class is impracticable. While the precise number of Class Members has not been
2 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class
3 Members employed by Defendants within the State of California.

4 45. Accounting for employee turnover during the relevant periods necessarily increases
5 this number. Plaintiff alleges Defendants' employment records would provide information as to the
6 number and location of all Class Members. Joinder of all members of the proposed Class is not
7 practicable.

8 **B. Commonality**

9 46. There are questions of law and fact common to Class Members. These common
10 questions include, but are not limited to:

- 11 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
12 worked at a proper overtime rate of pay?
- 13 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
14 for all other time worked at the employee's regular rate of pay and a rate of pay that
15 is greater than the applicable minimum wage?
- 16 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
17 Class Members to take compliant meal periods?
- 18 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
19 with additional wages for missed or interrupted meal periods?
- 20 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
21 Class Members to take compliant rest periods?
- 22 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
23 with additional wages for missed rest periods?
- 24 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
25 Members upon termination or resignation all wages earned?
- 26 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
27 section 203?
- 28 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing

1 Class Members with accurate wage statements?

2 J. Did Defendants fail to pay Class Members in a timely fashion as required under
3 Labor Code section 204?

4 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
5 losses incurred in direct consequence of the discharge of their duties or by obedience
6 to the directions of Defendants as required under Labor Code section 2802?

7 L. Did Defendants violate the Unfair Competition Law, Business and Professions Code
8 section 17200, *et seq.*, by their unlawful practices as alleged herein?

9 M. Are Class Members entitled to restitution of wages under Business and Professions
10 Code section 17203?

11 N. Are Class Members entitled to costs and attorneys' fees?

12 O. Are Class Members entitled to interest?

13 **C. Typicality**

14 47. The claims of Plaintiff herein alleged are typical of those claims which could be
15 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
16 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
17 damages arising out of and caused by Defendants' common course of conduct in violation of laws
18 and regulations that have the force and effect of law and statutes as alleged herein.

19 **D. Adequacy of Representation**

20 48. Plaintiff will fairly and adequately represent and protect the interest of Class
21 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
22 hour class actions.

23 **E. Superiority of Class Action**

24 49. A class action is superior to other available means for the fair and efficient
25 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
26 questions of law and fact common to Class Members predominate over any questions affecting only
27 individual Class Members. Class Members, as further described therein, have been damaged and
28 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the

1 violation of the Labor Code at times, as set out herein.

2 50. Class action treatment will allow Class Members to litigate their claims in a manner
3 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
4 any difficulties that are likely to be encountered in the management of this action that would
5 preclude its maintenance as a class action.

6 **FIRST CAUSE OF ACTION**

7 **(Failure to Pay Overtime Wages – Against All Defendants)**

8 51. Plaintiff realleges and incorporates by reference all of the allegations contained in
9 the preceding paragraphs as though fully set forth hereat.

10 52. At all relevant times, Plaintiff and Class Members were employees or former
11 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
12 Wage Orders.

13 53. At all times relevant to this Complaint, Labor Code section 510 was in effect and
14 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
15 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
16 at the rate of no less than one and one-half times the regular rate of pay for an employee.”

17 54. At all times relevant to this Complaint, Labor Code section 510 further provided that
18 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
19 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
20 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
21 pay.”

22 55. Four (4) years prior to the filing of the Complaint in this Action through the present,
23 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
24 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
25 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
26 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
27 actually worked at the proper overtime rate of pay; to clock out for meal periods and continue
28 working; editing and/or manipulation of time entries to show less hours than actually worked to the

1 detriment of Plaintiff and Class Members

2 56. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
3 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
4 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
5 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
6 applicable IWC Wage Orders, and California law.

7 57. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
8 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
9 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
10 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

11 **SECOND CAUSE OF ACTION**

12 **(Failure to Pay Minimum Wages – Against All Defendants)**

13 58. Plaintiff realleges and incorporates by reference all of the allegations contained in
14 the preceding paragraphs as though fully set forth hereat.

15 59. At all relevant times, Plaintiff and Class Members were employees or former
16 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

17 60. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and
18 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
19 Defendants' control.

20 61. For four (4) years prior to the filing of the Complaint in this Action through the
21 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
22 their regular rate of pay that is above the minimum wage ; to clock out for meal periods and continue
23 working; editing and/or manipulation of time entries to show less hours than actually worked to the
24 detriment of Plaintiff and Class Members.

25
26 62. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
27 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
28 for all hours worked or otherwise due.

63. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

64. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

65. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

66. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second timely meal period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.

67. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

68. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving the right to take them, as permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not provided compliant meal periods.

69. By their failure to provide Plaintiff and Class Members compliant meal periods as contemplated by Labor Code section 512, among other California authorities, and failing, at times,

1 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
2 violated the provisions of Labor Code section 512 and applicable Wage Orders.

3 70. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
4 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
5 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

6 71. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
7 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
8 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
9 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

10 **FOURTH CAUSE OF ACTION**

11 **(Failure to Provide Rest Periods – Against All Defendants)**

12 72. Plaintiff realleges and incorporates by reference all of the allegations contained in
13 the preceding paragraphs as though fully set forth hereat.

14 73. At all relevant times, Plaintiff and Class Members were employees or former
15 employees of Defendants covered by applicable Wage Orders.

16 74. California law and applicable Wage Orders require that employers “authorize and
17 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
18 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
19 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
20 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
21 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
22 thirty (30) minutes of paid rest period.

23 75. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
24 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
25 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's
26 regular rate of compensation for each work day that the rest period is not provided.

27 76. For four (4) years prior to the filing of the Complaint in this Action through the
28 present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete,

1 timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction
2 thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
3 Member's regular rate of compensation on the occasions that Class Members were not authorized
4 or permitted to take compliant rest periods.

5 77. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
6 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
7 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants
8 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

9 78. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
10 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
11 owed for rest periods that they were not authorized or permitted to take.

12 79. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
13 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
14 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
15 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

16 **FIFTH CAUSE OF ACTION**

17 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

18 80. Plaintiff realleges and incorporates by reference all of the allegations contained in
19 the preceding paragraphs as though fully set forth hereat.

20 81. At all relevant times, Plaintiff and Class Members were employees or former
21 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
22 Wage Orders.

23 82. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
24 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
25 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
26 discharge immediately upon termination. Class Members who resigned were entitled to payment
27 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
28 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and

1 unpaid at the time of resignation.

2 83. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)
3 years before the filing of the Complaint in this Action through the present, Defendants, due to the
4 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class
5 Members all wages earned prior to resignation or termination in accordance with Labor Code
6 sections 201 or 202.

7 84. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
8 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
9 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
10 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
11 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
12 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
13 or resignation..

14 85. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
15 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
16 resignation, until paid, up to a maximum of thirty (30) days.

17 86. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
18 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
19 prior to termination or resignation.

20 87. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
21 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
22 waiting time penalties, interest, and their costs of suit, as well.

23 **SIXTH CAUSE OF ACTION**

24 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

25 88. Plaintiff realleges and incorporates by reference all of the allegations contained in
26 the preceding paragraphs as though fully set forth hereat.

27 89. At all relevant times, Plaintiff and Class Members were employees or former
28 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

1 90. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
2 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
3 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
4 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
5 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
6 employer; among other things.

7 91. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
8 before the filing of the Complaint in this Action through the present, Defendants failed to comply
9 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
10 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
11 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
12 all applicable hourly rates in effect during the pay period and the corresponding number of hours
13 worked at each hourly rate; and the name and address of the legal entity that is the employer; and
14 among other things.

15 92. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
16 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
17 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
18 provided wage statements that Defendants knew were not accurate.

19 93. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
20 suffered injury. The absence of accurate information on Class Members' wage statements at times
21 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
22 mathematical computations to determine the amount of wages owed; causes difficulty and expense
23 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
24 about wages and amounts deducted from wages to state and federal governmental agencies, among
25 other things.

26 94. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
27 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
28 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent

1 pay period, not to exceed an aggregate \$4,000.00 per employee.

2 95. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
3 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
4 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
5 attorneys' fees, and costs of suit.

6 **SEVENTH CAUSE OF ACTION**

7 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

8 96. Plaintiff reallege each and every allegation set forth in the preceding paragraphs and
9 incorporate each by reference as though fully set forth hereat.

10 97. At all relevant times, Plaintiff and Class Members were employees or former
11 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

12 98. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
13 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
14 during which the labor was performed, and labor performed between the 16th and the last day,
15 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
16 month.”

17 99. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
18 independent and apart from, any other penalty provided in this article, every person who fails to pay
19 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
20 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
21 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
22 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
23 percent of the amount unlawfully withheld.”

24 100. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
25 before the filing of the Complaint in this Action through the present, Defendants employed policies
26 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
27 Labor Code section 204.

28 101. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to

1 recover penalties for Defendants' violations of Labor Code section 204, in the amount of one
2 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
3 for each subsequent violation in connection with each payment that was made in violation of Labor
4 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

5 102. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
6 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
7 interest, and their costs of suit, as well.

8 **EIGHTH CAUSE OF ACTION**

9 **(Violation of Labor Code § 2802 – Against All Defendants)**

10 103. Plaintiff reallege and incorporate by reference all of the allegations contained in the
11 preceding paragraphs as though fully set forth hereat.

12 104. At all relevant times, Plaintiff and Class Members were employees or former
13 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

14 105. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
15 his or her employee for all necessary expenditures or losses incurred by the employee in direct
16 consequence of the discharge of his or her duties . . .”

17 106. For three (3) years prior to the filing of the Complaint in this Action through the
18 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,
19 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
20 obedience to the directions of Defendants that included, without limitation: using cellular phones
21 for work-related purposes.

22 107. During that time period, Plaintiff is informed and believes, and based thereon allege
23 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and
24 Class Members for those losses and/or expenditures.

25 108. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
26 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
27 herein-described losses and/or expenditures.

28 109. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and

1 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
2 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys' fees and
3 costs of suit.

4 **NINTH CAUSE OF ACTION**

5 **(Unfair Competition – Against All Defendants)**

6 110. Plaintiff realleges and incorporates by reference all of the allegations contained in
7 the preceding paragraphs as though fully set forth hereat.

8 111. Plaintiff is informed and believes, and based thereon alleges that the unlawful
9 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
10 and Professions Code section 17200. Due to their unlawful business practices in violation of the
11 Labor Code, Defendants have gained a competitive advantage over other comparable companies
12 doing business in the State of California that comply with their obligations to compensate employees
13 in accordance with the Labor Code.

14 112. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
15 Members have suffered injury in fact and lost money or property.

16 113. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
17 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
18 Code and requiring the establishment of appropriate and effective means to prevent further
19 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
20 including interest thereon, in which they had a property interest and which Defendants nevertheless
21 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
22 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
23 by their failure to comply with the Labor Code.

24 114. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
25 Procedure section 1032 and interest under Civil Code section 3287.

26 **ELEVENTH CAUSE OF ACTION**

27 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

28 115. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the

1 preceding paragraphs as though fully set forth hereat.

2 Civil Penalties Under Labor Code § 210

3 116. At all relevant times herein, Labor Code section 204, requires and required that:
4 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid
5 for between the 16th and 26th day of the month during which the labor was performed, and labor
6 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
7 between the 1st and 10th day of the following month.”

8 117. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
9 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
10 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
11 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
12 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
13 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
14 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

15 118. At all relevant times herein, Defendants have had a consistent policy or practice of
16 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
17 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
18 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
19 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
20 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
21 for each subsequent violation in connection with each payment that was made in violation of Labor
22 Code section 204.

23 Civil Penalties Under Labor Code § 226.3

24 119. Defendants had and have a policy or practice of failing to comply with Labor Code
25 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
26 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
27 wages earned; the name and address of each employer with whom they have been placed to work;
28 all applicable hourly rates in effect during the pay period and the corresponding number of hours

1 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
2 entity securing the employer's services if the employer is a farm labor contractor; and other such
3 information as required by Labor Code section 226, subdivision (a).

4 120. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
5 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
6 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
7 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
8 deduction statement or fails to keep the records required in subdivision (a) of Section 226."

9 121. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
10 this section are in addition to any other penalty provided by law."

11 122. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
12 and have a policy or practice of failing to furnish non-exempt employees, including, without
13 limitation, Plaintiff, with itemized wage statements that accurately reflect gross wages earned; total
14 hours worked; net wages earned; all deductions; all applicable hourly rates in effect and the
15 corresponding number of hours worked at each hourly rate in effect during the pay period; the legal
16 name of the employer and/or the name and address of the legal entity securing the employer's
17 services if the employer is a farm labor contractor; and other such information as required by Labor
18 Code section 226, subdivision (a).

19 123. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
20 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
21 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
22 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
23 period for each subsequent violation.

24 Violation of Labor Code § 558

25 124. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
26 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
27 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
28 penalty as follows:

- 1 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and
2 for each pay period for which the employee was underpaid in addition to an
3 amount sufficient to recover underpaid wages;
- 4 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
5 employee for each pay period for which the employee was underpaid in
6 addition to an amount sufficient to recover underpaid wages;
- 7 (3) Wages recovered pursuant to this section shall be paid to the affected
8 employee.”

9 125. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
10 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
11 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime
12 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
13 regular payday designated by employer, the name of the employer, including any “doing business
14 as” names used, the name, address, and telephone number of the workers’ compensation insurance
15 carrier, information regarding paid sick leave, and other pertinent information.

16 126. As a direct and proximate result of the herein-described Labor Code violations,
17 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
18 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
19 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
20 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

21 Violation of Labor Code § 1174.5

22 127. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
23 every person employing labor in California to “[a]llow any member of the commission or the
24 employees of the Division of Labor Standards Enforcement free access to the place of business or
25 employment of the person to secure any information or make any investigation that they are
26 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
27 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
28 or papers of the person.”

128. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

129. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

130. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

131. Plaintiff is informed and believes, and based thereon alleges, that Defendants have willfully failed to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section 1174.

132. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five hundred dollars (\$500) per violation per Aggrieved Employee.

Violation of Labor Code § 1197.1

133. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other

1 person acting either individually or as an officer, agent, or employee of another person, who pays
2 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
3 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
4 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
5 Section 203 as follows:

- 6 (1) For any initial violation that is intentionally committed, one hundred dollars
7 (\$100) for each underpaid employee for each pay period for which the
8 employee is underpaid. This amount shall be in addition to an amount
9 sufficient to recover underpaid wages, liquidated damages pursuant to Section
10 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 11 (2) For each subsequent violation for the same specific offense, two hundred fifty
12 dollars (\$250) for each underpaid employee for each pay period for which the
13 employee is underpaid regardless of whether the initial violation is
14 intentionally committed. This amount shall be in addition to an amount
15 sufficient to recover underpaid wages, liquidated damages pursuant to Section
16 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 17 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant
18 to Section 203, recovered pursuant to this section shall be paid to the affected
19 employee.”

20 134. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
21 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
22 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ minimum wages for all
23 hours worked or otherwise under Defendants’ control due to, without limitation, failing to accurately
24 track and/or pay for all minutes actually worked at the proper overtime rate of pay; to clock out for
25 meal periods and continue working; editing and/or manipulation of time entries to show less hours
26 than actually worked to the detriment of Plaintiff and other Aggrieved Employees.

27 135. As a direct and proximate result of the herein-described Labor Code violations,
28 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to

1 recover civil penalties for Defendants' herein-described Labor Code violations in the amount one
2 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
3 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
4 subsequent violation.

5 Civil Penalties Under Labor Code § 2699

6 136. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
7 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
8 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
9 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
10 action brought by an aggrieved employee on behalf of himself or herself and other current or former
11 employees pursuant to the procedures specified in Labor Code section 2699.3.

12 137. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
13 Code except those for which a civil penalty is specifically provided, the established civil penalty for
14 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
15 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
16 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
17 employee per pay period for each subsequent violation.

18 138. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
19 each of them, violated the Labor Code sections described herein, including, without limitation, for
20 the failure to: pay the rates of pay and overtime rates of pay applicable to their employment,
21 allowances claimed as part of the minimum wage, the regular payday designated by Defendants, the
22 name of the employer, including "doing business as" names used, the name, address, and telephone
23 number of the workers' compensation insurance carrier, information regarding paid sick leave, and
24 other pertinent information required to be disclosed by Defendants under Labor Code section
25 2810.5, failing to provide Plaintiff and other Aggrieved Employees with the amount of paid sick
26 leave required to be provided pursuant to California and local laws.

27 139. Moreover, Plaintiff and other Aggrieved Employees within the State of California
28 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in

1 connection with their herein-described claims for civil penalties.

2 **DEMAND FOR JURY TRIAL**

3 140. Plaintiff demands a trial by jury on all causes of action contained herein.

4 **PRAYER**

5 WHEREFORE, on behalf of Plaintiff, Class Members and Aggrieved Employees, Plaintiff
6 prays for judgment against Defendants as follows:

- 7 A. An order certifying this case as a Class Action;
- 8 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
9 counsel as class counsel;
- 10 C. Damages for all wages earned and owed, including minimum. overtime wages and
11 unpaid wages for vested vacation time, under Labor Code sections 510, 1194, 1197
12 and 1199 and;
- 13 D. Liquidated damages pursuant to Labor Code section 1194.2;
- 14 E. Damages for unpaid premium wages from missed meal and rest periods under,
15 among other Labor Code sections, 512, and 226.7;
- 16 F. Penalties for inaccurate wage statements under Labor Code sections 226,
17 subdivision (e);
- 18 G. Waiting time penalties under Labor Code section 203 and;
- 19 H. Damages under Labor Code sections 2802 and;
- 20 I. Preliminary and permanent injunctions prohibiting Defendants from further
21 violating the California Labor Code and requiring the establishment of appropriate
22 and effective means to prevent future violations;
- 23 J. Restitution of wages and benefits due which were acquired by means of any unfair
24 business practice, according to proof;
- 25 K. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5,
26 1197.1, and 2699;
- 27 L. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 28 M. For attorneys' fees in prosecuting this action;

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I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my mailing address is 1460 Westwood Boulevard, Los Angeles, CA

NORRIS LAW GROUP, P.C.
Matthew J. Norris (SBN 257505)
mjnnorris@norrislglaw.com
10940 Wilshire Blvd., Suite 1600
Los Angeles, California 90024
Tel: (310) 443-4159; Fax: (310) 443- 4220

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

/s/ Araceli Marquez
Araceli Marquez