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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO
[CLASS ACTION]**

ARELY REYES, ALBERTO BAUTISTA,
individually and on behalf of all others
similarly situated, and on behalf of the
general public,

Plaintiffs,

vs.

LOS ALTOS FOOD PRODUCTS, INC. a
California corporation; PREMIER
STAFFING MANAGEMENT INC., a
California corporation; and DOES 1
through 20, inclusive,

Defendants

CASE NO.: CIVDS1518617
CLASS ACTION
JUDGE: Keith D. Davis
DEPT.: S25

**FIRST AMENDED
CLASS ACTION COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods;
4. Failure to Permit Rest Breaks;
5. Failure to Provide Accurate Itemized Wage Statements;
6. Failure to Pay All Accrued Vacation Benefits;
7. Failure to Pay All Wages Due Upon Separation of Employment;
8. Failure to Timely Pay All Earned Wages and Compensation;
9. Violation of California Wage Theft Protection Act; and
10. Violation of Business and Professions Code §§ 17200, et seq.
11. Private Attorney General Act

DEMAND FOR JURY TRIAL

1 Plaintiffs ARELY REYES and ALBERTO BAUTISTA, individually and on behalf of
2 others similarly situated, and on behalf of the general public, allege as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs ARELY REYES and Alberto BAUTISTA (“Plaintiffs”) bring this
5 putative class action and representative action against Defendants Los Altos Food Products, Inc.
6 (hereinafter “Los Altos”); Premier Staffing Management Inc. (hereinafter “Premier Staffing”)
7 and DOES 1 through 20, inclusive (collectively, “Defendants”), on behalf of themselves
8 individually and a putative class of non-exempt employees employed by Defendants throughout
9 California.

10 2. Los Altos is a manufacturer of cheese products in the City of Industry, County of
11 Los Angeles, specializing in the making of Mexican-style cheese products.

12 3. Premier Staffing is an employment staffing agency in the city of Rancho
13 Cucamonga, County of San Bernardino, providing employees for employers in the state of
14 California.

15 4. Through this action, Plaintiffs are alleging that Defendants have engaged in a
16 systematic pattern of wage and hour violations under the California Labor Code and Industrial
17 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
18 unfair competition.

19 5. On behalf of the Class and the general public, Plaintiffs seek to enforce the public
20 policy favoring compliance with labor and workplace safety and working condition standards
21 expressed under, inter alia, Labor Code § 90.5, to wit: “It is the policy of this state to vigorously
22 enforce minimum labor standards in order to ensure employees are not required or permitted to
23 work under substandard unlawful conditions, and to protect employers who comply with the law
24 from those who attempt to gain competitive advantage at the expense of their workers by failing
25 to comply with minimum labor standards.” Plaintiffs allege that the aforementioned conduct of
26 Defendants violates an important right affecting the public interest, as such phrase is used in Code
27 of Civil Procedure section 1021.5.
28

1 6. Plaintiffs are informed and believe, and thereon allege, that Defendants have
2 increased their profits by violating state wage and hour laws by, among other things:

- 3 (a) Failing to pay minimum wages;
- 4 (b) Failure to pay overtime wages
- 5 (c) Failing to provide meal periods or compensation in lieu thereof;
- 6 (d) Failing to authorize or permit rest breaks or provide compensation in lieu
7 thereof;
- 8 (e) Failing to provide accurate itemized wage statements;
- 9 (f) Failing to pay all accrued vacation benefits;
- 10 (g) Failing to pay all wages due upon separation of employment;
- 11 (h) Failure to timely pay all earned wages and compensation; and
- 12 (i) Failure to provide the requisite written notice in compliance with Labor
13 Code § 2810.5.

14 6. Plaintiffs bring this lawsuit seeking monetary relief against Defendants on behalf
15 of themselves and all other members of the general public similarly situated in California to
16 recover, among other things, unpaid wages and benefits, interest, attorney's fees, costs and
17 expenses and penalties pursuant to Labor Code §§ 201, 202, 203, 204, 204.1, 204.2, 210, 226,
18 226.3, 226.7, 227.3, 510, 512, 558, 1194.3, 1194, 1194.2, 1197, 1198, 2810.3, and 2810.5.

19 7. Plaintiffs are informed, believe, and thereon allege that Defendants and Does 1
20 through 20 specifically authorized, directed or participated in the violations of California
21 Business and Professions Code, California Labor Code and applicable Industrial Welfare
22 Commission Wage Order, against Plaintiffs and the Class, as set forth herein, and an ordinarily
23 prudent person, knowing what the directors knew at that time, would not have acted similarly
24 under the circumstances.

25 8. Plaintiffs are ignorant of the true names and capacities of Defendant Does 1
26 through 20, inclusive, and, by reason thereof, sue said Defendants by their fictitious names.
27 Plaintiffs will amend this complaint to allege the true names and capacity of said Doe Defendants
28 when same have been fully and finally ascertained.

JURISDICTION AND VENUE

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

10. Plaintiffs are informed, believe, and thereon allege that Defendants, LOS ALTOS FOOD PRODUCTS, INC.; and PREMIER STAFFING MANAGEMENT INC.; are the only primary defendants in this action and, at all times pertinent hereto, were and are citizens of the forum state of California.

11. Plaintiffs are informed, believe, and thereon allege that Defendants, Defendants, LOS ALTOS FOOD PRODUCTS, INC.; and PREMIER STAFFING MANAGEMENT INC.'s conduct, as alleged herein, forms a significant basis for the claims asserted by Plaintiffs and their fellow members of the Class in this action.

12. Plaintiffs are informed, believe, and thereon allege that Plaintiffs and their fellow members of the Class are seeking significant relief from Defendants, LOS ALTOS FOOD PRODUCTS, INC.; and PREMIER STAFFING MANAGEMENT INC.

13. Plaintiffs are informed, believe, and thereon allege that the principal injuries sustained by Plaintiffs and their fellow members of the Class, as alleges herein, resulted from the conduct of Defendants, LOS ALTOS FOOD PRODUCTS, INC.; and PREMIER STAFFING MANAGEMENT INC., and Does 1 through 20, and were incurred in the forum state - California.

14. Plaintiffs are informed, believe, and thereon allege that the claims asserted in this action do not involve matters of national or interstate interest; rather, this Class action involves a local controversy of the forum state - California.

15. Plaintiffs are informed, believe, and thereon allege that the claims asserted is this action will be governed exclusively by the laws of the forum state - California – the state in which this action is originally filed.

1 16. Plaintiffs are informed, believe, and thereon allege that, at all times mentioned
2 herein, that the claims alleges in this action, and the causes of action derived therefrom, do not
3 involve a federal question(s).

4 17. This is a class action, pursuant to California Code of Civil Procedure § 382. The
5 monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdictional limits of
6 the Superior Court and will be established according to proof at trial.

7 18. This Court has jurisdiction over this action pursuant to the California Constitution,
8 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those
9 given by statutes to other courts. The statutes under which this action is brought do not specify
10 any other basis for jurisdiction.

11 19. This Court has jurisdiction over all Defendants because, upon information and
12 belief, they are citizens of California, have sufficient minimum contacts in California or otherwise
13 intentionally avail themselves of the California market so as to render the exercise of jurisdiction
14 over them by the California courts consistent with traditional notions of fair play and substantial
15 justice.

16 20. Venue is proper in this Court because, upon information and belief, Defendants
17 reside, transact business or have offices in this county and the acts and omissions alleged herein
18 took place in this county.

19 21. Plaintiffs are informed, believe, and thereon allege that this action is brought in the
20 San Bernardino County Superior Court for the State of California as said forum has a distinct
21 nexus with Plaintiffs and their fellow members of the Class, the harm alleged, as well as
22 Defendants, LOS ALTOS FOOD PRODUCTS, INC.; and PREMIER STAFFING
23 MANAGEMENT INC., and Does 1 through 20.

24 22. Plaintiffs are informed, believe, and thereon allege that, at all times mentioned
25 herein, the number of citizens from the forum state of California, the state in which the action was
26 originally filed, comprising the proposed Class in the aggregate is substantially larger than the
27 number of citizens from any other state, and the citizenship of the other members of the class is
28 dispersed among a substantial number of states.

1 **JOINT EMPLOYER**

2 23. Plaintiffs are informed, believe, and thereon allege that, at all times mentioned
3 herein, the named Defendants, Does 1 through 20, and each of them, were acting as the agent
4 and/or employee of each remaining defendant, and were acting within the course and scope of
5 said principal-agency and/or employment relationship, and directed, authorized and/or ratified the
6 conduct set forth in detail herein. Plaintiffs are further informed and believe that each of the
7 fictitiously named Defendants is responsible in some manner for the occurrences herein alleges
8 and that Plaintiffs and their fellow members of the Class's damages, as herein alleges, were
9 proximately caused by such Defendants, and each of them.

10 24. Plaintiffs are informed, believe, and thereon allege that Defendants and Does 1
11 through 20, inclusive, were, at all times pertinent hereto, joint employers of the named Plaintiffs,
12 and other members of the Class, as they exercised joint control over and/or right to assign, place
13 and/or supervise the Class members' work or working conditions, maintained joint authority to
14 hire and fire employees, supervised and controlled employee work schedules and employment
15 conditions, determined rate and method of payment, and/or jointly maintained employment
16 records.

17 25. Plaintiffs are informed, believe, and thereon allege that at all times relative hereto,
18 Plaintiffs and their fellow Class members performed work that simultaneously benefitted
19 Defendants and Does 1 through 20, inclusive.

20 26. Plaintiffs are informed, believe, and thereon allege that at all times pertinent
21 hereto, there existed an arrangement between Defendants and Does 1 through 20, inclusive, to
22 share the employee's services, and each Defendant acted, either directly or indirectly, in the
23 interest of their fellow Defendants in relation to the employment of Plaintiffs and their fellow
24 Class members.

25 **ALTER EGO – AGENCY**

26 27. Plaintiffs are informed, believe, and thereon allege that there exists, and at all
27 times herein mentioned there existed, a unity of interest and ownership between Defendants and
28 Does 1 through 20, inclusive, on the one hand, and on the other hand, such that any corporate

1 individuality and separateness between said parties have ceased and that Defendants are the alter
2 ego of Does 1 through 20, inclusive, in that the businesses of Does 1 through 20, inclusive, are so
3 completely dominated, controlled, managed, and operated by Defendants that Does 1 through 20,
4 inclusive, function as a mere instrumentalities through which Defendants conduct their business.

5 28. Plaintiffs are informed, believe, and thereon allege that adherence to the fiction of
6 the existence of Does 1 through 20, as entities separate and distinct from Defendants would
7 permit an abuse of the corporate privilege and would sanction fraud and promote injustice in that
8 Plaintiffs could be denied a full recovery in the event that the assets of Does 1 through 20 are
9 insufficient to satisfy a judgment entered against them in this action. The corporate veil
10 established Does 1 through 20, should be pierced and the alter ego doctrine applied in the context
11 of this action.

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

23 30. Plaintiffs are informed, believe, and thereon allege that it would sanction a fraud or
24 promote an injustice to uphold the corporate entities of Defendants and Does 1 through 20, and
25 allow the shareholders of Defendants and Does 15 through 20, to escape personal liability for
26 his/her/their debts to Plaintiffs and their fellow members of the Class.

1 31. Plaintiffs are informed, believe, and thereon allege that Defendants and Does 1
2 through 20, specifically authorized, directed or participated in the violations of California
3 Business and Professions Code, California Labor Code and applicable Industrial Welfare
4 Commission Wage Orders, against Plaintiffs and their fellow members of the Class, as set forth
5 herein, and an ordinarily prudent person, knowing what the directors knew at that time, would not
6 have acted similarly under the circumstances.

7 **CLIENT EMPLOYER - LABOR CONTRACTOR**

8 32. Plaintiffs are informed, believe and thereon allege that, at all times pertinent
9 hereto, Los Altos and Does 5 through 10, were and remain business entities that obtain(ed) or
10 are/were provided workers to perform labor within its usual course of business, i.e. the regular
11 and customary work of a business, performed within or upon the premises or worksite of the
12 client employer, from a labor contractor. As such, at all times pertinent hereto, Los Altos and
13 Does 5 through 10 were and remain a “client employer” as that term is statutorily defined in
14 California Labor Code § 2810.3(a)(1)(A).

15 33. Plaintiffs are informed, believe and thereon allege that, at all times pertinent
16 hereto, Premier Staffing and Does 11 through 15, were and remain individuals or entities that
17 supply, eitherwith or without a contract, a client employer with workers to perform labor with the
18 client employers’ usual course of business. As such, at all times pertinent hereto, Premier Staffing
19 and Does 10 through 15 were and remain a “labor contractor” as that term is statutorily defined in
20 California Labor Code § 2810.3(a)(3).

21 34. Plaintiffs are informed, believe and thereon allege that, at all times pertinent
22 hereto, Plaintiffs and their fellow members of the Class were not exempt from the payment of an
23 overtime rate of compensation for executive, administrative, and professional employees pursuant
24 to wage orders by the Industrial Welfare Commission described in Labor Code § 515.

25 35. Plaintiffs are informed, believe and thereon allege that, at all times pertinent
26 hereto, Los Altos and Does 5 through 10 were and remain business entities with a workforce of
27 more than 25 workers, including those hired directly by the client employer and those obtained
28 from, or provided by, any labor contractor.

36. Plaintiffs are informed, believe and thereon allege that, at all times pertinent hereto, Los Altos and Does 5 through 10 were and remain business entities with more than five workers supplied by a labor contractor or labor contractors to the client employer at any given time.

37. 34. Plaintiffs are informed, believe and thereon allege that, at all times pertinent hereto, Los Altos and Does 5 through 10 were not states or the political subdivision of the states, including any city, county, city and county, or special district.

38. Plaintiffs are informed, believe and thereon allege that, at all times pertinent hereto, Premier Staffing and Does 11 through 15, were neither bona fide nonprofit, community-based organizations that provide services to workers nor bona fide labor organizations or apprenticeship programs or hiring halls operated pursuant to a collective bargaining agreement.

39. Plaintiffs are informed, believe and thereon allege that, at all times pertinent hereto, Premier Staffing and Does 11 through 15, were not motion picture payroll service companies as defined in subparagraph (A) of paragraph (4) of subdivision (f) of Section 679 of the Unemployment Insurance Code.

40. Plaintiffs are informed, believe and thereon allege that, at all times pertinent hereto, Premier Staffing and Does 11 through 15, were not third parties who were parties to an employee leasing arrangement, as defined by Rule 4 of Section V of the California Workers Compensation Experience Rating Plan–1995 (Section 2353.1 of Title 10 of the California Code of Regulations), as it read on January 1, 2014.

41. Plaintiffs are informed, believe and thereon allege that, in accordance with Labor Code §2810.3(d), at least 30 days prior to filing this civil action against client employers, Los Altos, and Does 5 through 10, for violations covered by this section, Plaintiffs or their representative notified client employer, Los Altos and Does 5 through 10, of the violations under subdivision (b).

THE PARTIES

42. Plaintiff and Class Representative, ARELY REYES, a resident of Texas in the city of Katy, was, at times pertinent hereto, domiciled in the State of California.

43. Plaintiff and Class Representative, ALBERTO BAUTISTA is a resident of California in the County of Los Angeles, and was, at times pertinent hereto, domiciled in the State of California.

44. Plaintiffs are informed and believe, and thereon allege, that Defendants at all times hereinafter mentioned, were and are employers as defined in and subject to the Labor Code and IWC Wage Orders, whose employees are engaged throughout this county and the State of California.

45. Plaintiffs are unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this Complaint and serve such fictitiously named Defendants once their names and capacities become known.

CLASS ACTION ALLEGATIONS

46. Plaintiffs bring this action under Code of Civil Procedure § 382 on behalf of themselves and all other members of the general public similarly situated who were affected by Defendants' Labor Code, Business and Professions Code §§ 17200, et seq., and IWC Wage Order violations.

47. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law.

48. Plaintiffs' proposed Class is comprised of the following Sub-classes:

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

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

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

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

Defendants failed to provide a second valid 30 consecutive minute meal period, uninterrupted, relieved of all job duties;

(d) Rest Period Sub-Class: Those members of the Class who worked in excess of 4 hours a day but Defendants did not permit to take a valid paid 10 consecutive minute rest period, uninterrupted, relieved of all job duties; and/or those members of the Class who worked in excess of 6 hours a day but Defendants did not permit to take a second a valid, paid 10 consecutive minute rest period, uninterrupted, relieved of all job duties;

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

(f) Vacation Benefits Sub-Class: Those members of the Class who were not paid all accrued vacation benefits;

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

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

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

49. Plaintiffs reserve the right pursuant to Rule 3.765, to amend or modify the respective definitions of the Class and/or Sub-Classes to provide greater specificity and/or further division into subclasses or limitation to particular issues.

50. Members of the Class and/or Subclass described above will be collectively referred to as “class members.” Plaintiffs reserve the right to re-define the above Class and/or Subclass and add additional Subclasses as appropriate based on investigation, discovery and

specific theories of liability.

51. Plaintiff and Class Representative, ARELY REYES, was employed with Defendants from approximately 2007 to approximately June 2015, as a member of the non-exempt employees comprising the Class.

52. Plaintiff and Class Representative, ALBERTO BAUTISTA, was employed with Defendants from approximately 1994 to approximately July 2014, as a member of the non-exempt employees comprising the Class.

53. There are common questions of law and fact as to the Class and/or Subclass that predominate over any questions affecting only individual members including, but not limited to:

(a) Whether Defendants failed to pay at least minimum wage for all hours worked by Plaintiffs and class members;

(b) Whether Defendants failed to pay all overtime hours worked by Plaintiffs and class members;

(c) Whether Defendants failed to pay all double-time hours worked by Plaintiffs and class members;

(d) Whether Defendants deprived Plaintiffs and class members of timely meal periods, required Plaintiffs and class members to work through meal periods without compensation, or had a policy off automatically deducting 30 minutes for meal periods regardless of whether the meal periods were actually lawfully taken;

(e) Whether Defendants deprived Plaintiffs and class members of rest breaks or required Plaintiffs and class members to work through rest breaks without compensation;

(f) Whether Defendants failed to provide accurate itemized wage statements to Plaintiffs and class members;

(g) Whether Defendants failed to pay all vacation benefits accrued by Plaintiffs and class members;

(h) Whether Defendants failed to timely pay all wages due to Plaintiffs and class members upon termination or within 72 hours of resignation;

1 (i) Whether Defendants failed to timely pay all wages and compensation
2 earned by Plaintiffs and class members;

3 (j) Whether Defendants failed to provide to Plaintiffs and class members a
4 written notice in accordance with the statutory requirements of California Labor Code § 2810.5;

5 (k) Whether Defendants' conduct was willful or reckless; and

6 (l) Whether Defendants engaged in unfair business practices in violation of
7 Business and Professions Code §§ 17200, et seq.

8 54. There is a well-defined community of interest in this litigation and the proposed
9 Class and/or Subclass are readily ascertainable:

10 (a) Numerosity: The members of the Class and/or Subclass are so numerous
11 that joinder of all members is impractical. Although the members of the entire Class and/or
12 Subclass are unknown to Plaintiffs at this time, on information and belief, the class is estimated to
13 be greater than one hundred (100) individuals. The identities of the Class and/or Subclass are
14 readily ascertainable by inspection of Defendants' employment and payroll records.

15 (b) Typicality: The claims (or defenses, if any) of Plaintiffs are typical of the
16 claims (or defenses, if any) of the class because Defendants' failure to comply with the provisions
17 of California's wage and hour laws entitled each class member to similar pay, benefits and other
18 relief. The injuries sustained by Plaintiffs are also typical of the injuries sustained by the Class
19 and/or Subclass, because they arise out of and are caused by Defendants' common course of
20 conduct as alleged herein.

21 (c) Adequacy: Plaintiffs will fairly and adequately represent and protect the
22 interests of all members of the Class and Subclasses because it is in her best interests to prosecute
23 the claims alleged herein to obtain full compensation and penalties due them and the Class and
24 Subclasses. Plaintiffs' attorneys, as proposed class counsel, are competent and experienced in
25 litigating large employment class actions and versed in the rules governing class action discovery,
26 certification and settlement. Plaintiffs have incurred and, throughout the duration of this action,
27 will continue to incur attorney's fees and costs that have been and will be necessarily expended
28 for the prosecution of this action for the substantial benefit of each class member.

1 (d) Superiority: The nature of this action makes use of class action
2 adjudication superior to other methods. A class action will achieve economies of time, effort and
3 expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the
4 same issues can be adjudicated in the same manner and at the same time for the entire Class
5 and/or Subclass. If appropriate this Court can, and is empowered to, fashion methods to
6 efficiently manage this case as a class action.

7 (e) Public Policy Considerations: Employers in the State of California violate
8 employment and labor laws every day. Current employees are often afraid to assert their rights
9 out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions
10 because they believe their former employers might damage their future endeavors through
11 negative references and/or other means. Class actions provide the class members who are not
12 named in the complaint with a type of anonymity that allows for the vindication of their rights at
13 the same time as affording them privacy protections.

14 **GENERAL ALLEGATIONS**

15 55. At all relevant times mentioned herein, Defendants employed Plaintiffs and other
16 persons as non-exempt, hourly employees.

17 56. Defendants employed Plaintiff ARELY REYES in a non-exempt, hourly position
18 at Defendants' Los Angeles County, California business location as a production worker from
19 approximately 2008 to approximately June 2015. Plaintiff's job duties included, working on the
20 assembly line, packing products, and palletizing.

21 57. Defendants employed Plaintiff ALBERTO BAUTISTA in a non-exempt, hourly
22 position at Defendants' Los Angeles County, California business location as a production worker
23 from approximately 1994 to approximately July 2014. Plaintiff's job duties included, working on
24 production machinery and general maintenance.

25 58. Defendants continue to employ non-exempt, hourly employees within California.

26 59. Plaintiffs are informed and believe, and thereon allege, that at all times herein
27 mentioned, Defendants were advised by skilled lawyers, employees and other professionals who
28 were knowledgeable about California's wage and hour laws, employment and personnel practices

1 and the requirements of California law.

2 60. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
3 should have known that Plaintiffs and class members were entitled to receive at least minimum
4 wages and that they were not receiving at least minimum wages for work that was required to be
5 performed. In violation of the Labor Code and IWC Wage Orders, Plaintiffs and class members
6 were not paid at least minimum wages for all hours worked.

7 61. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
8 should have known that Plaintiffs and class members were entitled to receive certain wages for
9 overtime compensation. In violation of the Labor Code and applicable IWC Wage Order,
10 Plaintiffs and class members were not properly paid for all of their overtime work.

11 62. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
12 should have known that Plaintiffs and class members were entitled to receive all meal periods or
13 payment of one (1) additional hour of pay at Plaintiffs and class members' regular rate of pay
14 when they did not receive a timely, uninterrupted meal period. In violation of the Labor Code
15 and IWC Wage Orders, Plaintiffs and class members did not receive all meal periods or payment
16 of one (1) additional hour of pay at Plaintiffs' and class members' regular rate of pay when they
17 did not receive a timely, uninterrupted meal period.

18 63. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
19 should have known that Plaintiffs and class members were entitled to receive all rest breaks or
20 payment of one (1) additional hour of pay at Plaintiffs' and class members' regular rate of pay
21 when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiffs
22 and class members did not receive all rest breaks or payment of one (1) additional hour of pay at
23 Plaintiffs' and class members' regular rate of pay when a rest break was missed.

24 64. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
25 should have known that Plaintiffs and class members were entitled to receive itemized wage
26 statements that accurately showed their gross and net wages earned, total hours worked and all
27 applicable hourly rates in effect and the number of hours worked at each hourly rate in
28 accordance with California law. In violation of the Labor Code, Plaintiffs and class members

1 were not provided with accurate itemized wage statements.

2 65. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
3 should have known that Plaintiffs and class members were entitled to receive payment of all
4 accrued and earned vacation benefits. In violation of the Labor Code, Plaintiffs and former class
5 members did not receive payment of all vacation benefits.

6 66. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
7 should have known that Plaintiffs and class members were entitled to timely payment of wages
8 due upon separation of employment. In violation of the Labor Code, Plaintiffs and former class
9 members did not receive payment of all wages including, but not limited to, unpaid minimum
10 overtime compensation, and missed meal and rest break premiums within permissible time
11 periods.

12 67. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that Plaintiffs and class members were entitled to timely receive all wages
14 and compensation earned in accordance with California law. In violation of the Labor Code,
15 Plaintiffs and class members were not timely paid all wages and compensation.

16 68. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
17 should have known that Plaintiffs and class members were entitled to be provided a written notice
18 in accordance with the statutory requirements of California Labor Code § 2810.5. In violation of
19 the Labor Code, Plaintiffs and class members were not provided with a written notice in
20 accordance with the statutory requirements of California Labor Code § 2810.5.

21 69. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
22 should have known they had a duty to compensate Plaintiffs and class members, and Defendants
23 had the financial ability to pay such compensation but willfully, knowingly and intentionally
24 failed to do so all in order to increase Defendants' profits.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGES**

3 (Violation of Labor Code §§ 1194, 1194.2, and 1197; Violation of IWC Wage Order § 1)

4 (Alleged by Plaintiffs Individually and On Behalf of All Others Similarly Situated,

5 Against All Defendants)

6 70. Plaintiffs hereby re-allege and incorporate by reference all paragraphs in this First
7 Amended Complaint as though fully set forth herein.

8 71. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
9 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
10 wage than the minimum so fixed is unlawful.

11 72. During the relevant time period, Defendants paid Plaintiffs and class members less
12 than minimum wages when they required Plaintiffs and class members to work off the clock by
13 performing work and/or putting their uniforms while off the clock, and failed to pay proper
14 compensation for all hours worked, including time worked during missed and/or interrupted meal
15 periods. To the extent these hours do not qualify for the payment of overtime, Plaintiffs and class
16 members were not being paid at least minimum wage for their work.

17 73. During the relevant time period, Defendants regularly failed to pay at least
18 minimum wage to Plaintiffs and class members for all hours worked pursuant to Labor Code §§
19 1194 and 1197.

20 74. Defendants' failure to pay Plaintiffs and class members the minimum wage as
21 required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiffs and class
22 members are entitled to recover the unpaid balance of their minimum wage compensation as well
23 as interest, costs and attorney's fees.

24 75. Pursuant to Labor Code § 1194.2, Plaintiffs and class members are entitled to
25 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest
26 thereon.

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(Violation of Labor Code §§ 510, 1194 and 1198; Violation of IWC Wage Order # 1)
(Alleged by Plaintiffs Individually and On Behalf of All Others Similarly Situated,
Against All Defendants)

77. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half or two times the person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

79. Plaintiffs and the class members were non-exempt, hourly employees entitled to the protections of California Labor Code §§ 510 and 1194.

80. During the course of their employment, Defendants failed to compensate Plaintiffs and the class members for overtime and double time hours worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, after eight (8) hours on the seventh day of any work week and/or in excess of forty (40) hours in a week. Moreover, Defendants improperly calculated Plaintiffs' and class members' rate of pay by excluding quality assurance and/or production bonuses from their regular rate of pay. Therefore, Plaintiffs and the class members were not properly paid for all of their overtime and double time work.

81. In violation of state law, Defendants have knowingly and willfully refused to perform their obligations and compensate Plaintiffs and the class members for all wages earned and all hours worked.

82. Defendants' failure to pay Plaintiffs and the class members the unpaid balance of overtime and double time compensation, as required by California law, violates the provisions of Labor Code §§ 510 and 1198, and is therefore unlawful.

83. Labor Code § 558(a) provides “any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provisions regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.”

84. Defendants have violated provisions of the Labor Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiffs seek the remedies set forth in Labor Code § 558 for themselves and the class members.

85. Pursuant to Labor Code § 1194, Plaintiffs and the class members are entitled to recover their unpaid overtime and double time compensation as well as interest, costs and attorney's fees.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order § 11)

(Alleged by Plaintiffs Individually and On Behalf of All Others Similarly Situated,

Against All Defendants)

1 86. Plaintiffs hereby re-allege and incorporate by reference all paragraphs in this First
2 Amended Complaint as though fully set forth herein.

3 87. Labor Code § 226.7 provides that no employer shall require an employee to work
4 during any meal period mandated by the IWC Wage Orders.

5 88. Section 11 of the applicable IWC Wage Order states, “no employer shall employ
6 any person for a work period of more than five (5) hours without a meal period of not less than 30
7 minutes, except that when a work period of not more than six (6) hours will complete the day’s
8 work the meal period may be waived by mutual consent of the employer and the employee.”

9 89. Labor Code § 512(a) provides that an employer may not require, cause or permit
10 an employee to work for a period of more than five (5) hours per day without providing the
11 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the
12 total work period per day of the employee is not more than six (6) hours, the meal period may be
13 waived by mutual consent of both the employer and the employee.

14 90. Labor Code § 512(a) also provides that an employer may not employ an employee
15 for a work period of more than ten (10) hours per day without providing the employee with a
16 second meal period of not less than thirty (30) minutes, except that if the total hours worked is no
17 more than twelve (12) hours, the second meal period may be waived by mutual consent of the
18 employer and the employee only if the first meal period was not waived.

19 91. During the relevant time period, Plaintiffs and class members did not receive
20 compliant meal periods for working more than five (5) and/or ten (10) hours per day because they
21 were required to work through their meal periods and/or 30 minutes was automatically deducted
22 from their pay when meal periods were not provided.

23 92. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order requires
24 an employer to pay an employee one additional hour of pay at the employee’s regular rate of
25 compensation for each work day that the meal period is not provided.

26 93. At all relevant times, Defendants failed to pay Plaintiffs and class members the full
27 meal period premium for missed and untimely meal periods pursuant to Labor Code § 226.7(b)
28 and section 11 of the applicable IWC Wage Order.

1 94. As a result of Defendants' failure to pay Plaintiffs and class members an additional
2 hour of pay for each day a meal period was not provided, Plaintiffs and class members suffered
3 and continue to suffer a loss of wages and compensation.

4 **FOURTH CAUSE OF ACTION**

5 **FAILURE TO PERMIT REST BREAKS**

6 (Violation of Labor Code § 226.7; Violation of IWC Wage Order § 12)

7 (Alleged by Plaintiffs Individually and On Behalf of All Others Similarly Situated,

8 Against All Defendants)

9 95. Plaintiffs hereby re-allege and incorporate by reference all paragraphs in this First
10 Amended Complaint as though fully set forth herein.

11 96. Labor Code § 226.7(a) provides that no employer shall require an employee to
12 work during any rest period mandated by the IWC Wage Orders.

13 97. Section 12 of the applicable IWC Wage Order states "every employer shall
14 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
15 the middle of each work period" and the "authorized rest period time shall be based on the total
16 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
17 fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

18 98. During the relevant time period, Plaintiffs and class members did not receive a ten
19 (10) minute rest period for every four (4) hours or major fraction thereof worked because they
20 were required to work through their daily rest periods and/or were not permitted to take rest
21 periods unless and until they had worked a multiple of four (4) hours, but not a major fraction
22 thereof.

23 99. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires
24 an employer to pay an employee one additional hour of pay at the employee's regular rate of
25 compensation for each work day that the rest period is not provided.

26 100. At all relevant times, Defendants failed to pay Plaintiffs and class members the full
27 rest period premium for missed or interrupted rest periods pursuant to Labor Code § 226.7(b) and
28 section 12 of the applicable IWC Wage Order.

101. As a result of Defendants' failure to pay Plaintiffs and class members an additional hour of pay for each day a rest period was not provided, Plaintiffs and class members suffered and continue to suffer a loss of wages and compensation.

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Violation of Labor Code § 226)

(Alleged by Plaintiff ARELY REYES Individually and On Behalf of All Others Similarly Situated,
Against All Defendants)

102. Plaintiff ARELY REYES hereby re-alleges and incorporates by reference all paragraphs in this First Amended Complaint as though fully set forth herein.

103. Labor Code § 226(a) requires Defendants to provide each employee with an accurate wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

104. During the relevant time period, Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff ARELY REYES and class members. The deficiencies include, among other things, the failure to correctly state the gross and net wages earned, total hours worked and all applicable hourly rates in effect and the number of hours worked at each hourly rate by Plaintiff ARELY REYES and class members.

105. As a result of Defendants' knowing and intentional failure to comply with Labor Code § 226(a), Plaintiff ARELY REYES and class members have suffered injury and damage to their statutorily-protected rights. Specifically, Plaintiff ARELY REYES and class members have been injured by Defendants' intentional violation of Labor Code § 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate itemized wage statements under Labor Code § 226(a). In addition, Defendants have made it difficult to calculate the number of hours worked by Plaintiff ARELY REYES and class members and the amount of wages and compensation owed to them. Plaintiff ARELY REYES has had to file this lawsuit and will be required to conduct discovery and perform computations in order to analyze whether in fact she was paid correctly and the extent of the underpayment, thereby causing Plaintiff ARELY REYES to incur expenses and lost time. Plaintiff ARELY REYES would not have had to engage in these efforts and incur these costs had Defendants provided wage statements accurately showing gross and net wages earned and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, among other things. This has also delayed Plaintiffs' ability to demand and recover the underpayment of wages from Defendants.

106. Plaintiff ARELY REYES and class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with Labor Code § 226(a) or an aggregate penalty not exceeding four thousand dollars per employee.

SIXTH CAUSE OF ACTION

FAILURE TO PAY ALL ACCRUED VACATION BENEFITS

(Violation of Labor Code §227.3)

(Alleged by Plaintiffs Individually and On Behalf of the Vacation Benefits Subclass,
Against All Defendants)

107. Plaintiffs hereby re-allege and incorporate by reference all paragraphs in this First Amended Complaint as though fully set forth herein.

108. At all times pertinent hereto, Plaintiffs and their fellow members of the Class's employment with Defendants was not governed by any collective-bargaining agreement.

1 109. Plaintiffs are informed, believe, and thereon allege that at all times pertinent
2 hereto, Plaintiffs and their fellow members of the Class's employment with Defendants provided
3 for paid vacation.

4 110. Plaintiffs are informed, believe, and thereon allege that at all times pertinent
5 hereto, Plaintiffs and their fellow members of the Class's employment with Defendants was
6 terminated without Plaintiffs and their fellow members of the Class having taken off all of their
7 vested vacation time.

8 111. Plaintiffs are informed, believe, and thereon allege that despite the fact that
9 Plaintiffs and their fellow members of the Class's employment with Defendants was terminated
10 without Plaintiffs and their fellow members of the Class having taken off all of their vested
11 vacation time, Defendants failed to pay Plaintiffs and their fellow members of the Class all of
12 their respective vested vacation wages at their final rate in accordance with Defendants' policy
13 and practice respecting eligibility or time served.

14 112. Plaintiffs are informed, believe, and thereon allege that at times pertinent hereto,
15 Defendants' policies and practices regarding vested vacation benefits violated Labor Code §
16 227.3, as they unlawfully provided that Plaintiffs and their fellow members of the Class's vested
17 vacation time, and the wages attendant therewith, were forfeited upon termination of Plaintiffs
18 and their fellow members of the Class's employment with Defendants.

19 113. Plaintiffs are informed, believe, and thereon allege that Defendants, and each of
20 them, by and through their respective corporate officers, directors, and managing agents, ordered,
21 authorized, approved, or ratified the conduct herein alleged with the intent to deprive Plaintiffs
22 and fellow members of the Class of the vested vacation wages to which they were entitled under
23 California law so as to increase Defendants' profits, regardless of their statutory obligations,
24 including those which carry criminal penalties for noncompliance.

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

3 (Violation of Labor Code §§ 201, 202 and 203)

4 (Alleged by Plaintiffs Individually and On Behalf of the Penalties' Subclass,

5 Against All Defendants)

6 114. Plaintiffs hereby re-allege and incorporate by reference all paragraphs in this First
7 Amended Complaint as though fully set forth herein.

8 115. Labor Code §§ 201 and 202 provide that if an employer discharges an employee,
9 the wages earned and unpaid at the time of discharge are due and payable immediately, and that if
10 an employee voluntarily leaves his employment, his wages shall become due and payable not
11 later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72)
12 hours previous notice of his intention to quit, in which case the employee is entitled to his wages
13 at the time of quitting.

14 116. During the relevant time period, Defendants willfully failed to pay Plaintiffs and
15 class members who are no longer employed by Defendants all their earned wages upon
16 termination including, but not limited to, proper minimum and overtime wages, either at the time
17 of discharge or within seventy-two (72) hours of their leaving Defendants' employ.

18 117. Defendants' failure to pay Plaintiffs and former class members all their earned
19 wages at the time of discharge or within seventy-two (72) hours of their leaving Defendants'
20 employ is in violation of Labor Code §§ 201 and 202.

21 118. Labor Code § 203 provides that if an employer willfully fails to pay wages owed
22 immediately upon discharge or resignation in accordance with Labor Code §§ 201 and 202, then
23 the wages of the employee shall continue as a penalty from the due date at the same rate until paid
24 or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

25 119. Plaintiffs and former class members are entitled to recover from Defendants the
26 statutory penalty which is defined as Plaintiffs and former class members' regular daily wages for
27 each day they were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum
28 pursuant to Labor Code § 203.

1 **EIGHTH CAUSE OF ACTION**

2 **FAILURE TO TIMELY PAY ALL EARNED WAGES AND COMPENSATION**

3 (Violation of Labor Code §§ 201, 202, 204.1, or 204.2)

4 (Alleged by Plaintiffs Individually and On Behalf of the Untimely Payment of Wages-
5 Compensation Sub-Class, Against All Defendants)

6 120. Plaintiffs hereby re-allege and incorporate by reference all paragraphs in this First
7 Amended Complaint as though fully set forth herein.

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

16 122. Plaintiffs are informed, believe and thereon allege that Defendants failed to timely
17 tender Plaintiffs and their fellow members of the Class all of their earned minimum and regular
18 wages, overtime wages, and Labor Code § 226.7 compensation, earned by Plaintiffs and their
19 fellow members of the Class, in accordance with California law, including, but not limited to,
20 Labor Code § 204, such that labor performed between the 1st and 15th days, inclusive, of any
21 calendar month was not paid for between the 16th and the 26th day of the month during which the
22 labor was performed, and labor performed between the 16th and the last day, inclusive, of any
23 calendar month, was not paid for between the 1st and 10th day of the following month.

24 123. Plaintiffs are informed, believe and thereon allege that as a consequence of
25 Defendants' failure to timely tender Plaintiffs and their fellow members of the Class all of their
26 earned minimum and regular wages, overtime wages, and Labor Code § 226.7 compensation,
27 Plaintiffs were deprived of the timely receipt of their earned wages and other compensation and,
28 as a result thereof, were deprived of the interest and monetary appreciation that would accrue on

1 said monies - financial growth which Defendants were afforded the opportunity to realize as a
2 consequence of their unlawful and unfair withholding of said wages and compensation earned by,
3 and due and owing, Plaintiffs and their fellow members of the Class.

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

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

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

22 **NINTH CAUSE OF ACTION**

23 **VIOLATION OF CALIFORNIA WAGE THEFT PREVENTION ACT**

24 (Violation of Labor Code §§ 201, 202, 204.1, or 204.2)

25 (Alleged by Plaintiffs Individually and On Behalf of the Labor Code § 2810.5 Notice Sub-Class,
26 Against All Defendants)

27 127. Plaintiffs hereby re-allege and incorporate by reference all paragraphs in this First
28 Amended Complaint as though fully set forth herein.

1 128. At all times pertinent hereto, California's Wage Theft Prevention Act, codified in
2 part in California Labor Code § 2810.5, provided in pertinent part: (a) (1) At the time of hiring, an
3 employer shall provide to each employee a written notice, in the language the employer normally
4 uses to communicate employment-related information to the employee, containing the following
5 information: (A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day,
6 week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable.
7 (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging
8 allowances. (C) The regular payday designated by the employer in accordance with the
9 requirements of this code. (D) The name of the employer, including any "doing business as" names
10 used by the employer. (E) The physical address of the employer's main office or principal place of
11 business, and a mailing address, if different. (F) The telephone number of the employer. (G) The
12 name, address, and telephone number of the employer's workers' compensation insurance carrier.
13 (H) That an employee: may accrue and use sick leave; has a right to request and use accrued paid
14 sick leave; may not be terminated or retaliated against for using or requesting the use of accrued
15 paid sick leave; and has the right to file a complaint against an employer who retaliates. (I) Any
16 other information the Labor Commissioner deems material and necessary....(3) If the employer is
17 a temporary services employer, as defined in Section 201.3, the notice described in paragraph (1)
18 must also include the name, the physical address of the main office, the mailing address if different
19 from the physical address of the main office, and the telephone number of the legal entity for
20 whom the employee will perform work, and any other information the Labor Commissioner deems
21 material and necessary. ...(b) An employer shall notify his or her employees in writing of any
22 changes to the information set forth in the notice within seven calendar days after the time of the
23 changes, unless one of the following applies: (1) All changes are reflected on a timely wage
24 statement furnished in accordance with Section 226. (2) Notice of all changes is provided in
25 another writing required by law within seven days of the changes.

26 129. Plaintiffs are informed, believe and thereon allege that all times pertinent hereto,
27 Defendant STAFFING NETWORK was a temporary services employer, as defined in Labor
28 Code § 201.3.

130. Plaintiffs are informed, believe and thereon allege that all times pertinent hereto, Defendants were not security services companies licensed by the Department of Consumer Affairs and that solely provided security services.

131. At all times pertinent hereto, neither Plaintiffs nor their fellow members of the Class were employees directly employed by the state or any political subdivision thereof, including any city, county, city and county, or special district.

132. At all times pertinent hereto, neither Plaintiffs nor their fellow members of the Class were employees who were exempt from the payment of overtime wages by statute or the wage orders of the Industrial Welfare Commission.

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

134. Plaintiffs are informed, believe and thereon allege that at no time during the Class Period did Defendants provide either Plaintiffs or their fellow members of the Class the written notice required pursuant to the California's Wage Theft Prevention Act, codified in part in California Labor Code § 2810.5.

TENTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.

(Alleged by Plaintiffs Individually and On Behalf of All Others Similarly Situated,
Against All Defendants)

135. Plaintiffs hereby re-allege and incorporate by reference all paragraphs in this First Amended Complaint as though fully set forth herein.

136. Defendants' conduct, as alleged herein, has been and continues to be unfair, unlawful and harmful to Plaintiffs, class members and to the general public. Plaintiffs seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

1 137. Defendants' activities, as alleged herein, violate California law and constitute
2 unlawful business acts or practices in violation of California Business and Professions Code §§
3 17200, et seq.

4 138. A violation of Business and Professions Code §§ 17200, et seq. may be predicated
5 on the violation of any state or federal law.

6 139. Defendants' policies and practices have violated state law in at least the following
7 respects:

- 8 (a) Failing to pay at least minimum wage to Plaintiffs and class members in violation
9 of Labor Code §§ 1194 and 1197;
- 10 (b) Violation of Labor Code §§ 510, 1194 and 1198 for Defendants' failure to
11 compensate Plaintiffs and other aggrieved employees with all required overtime
12 and double time pay as herein alleged;
- 13 (c) Violation of Labor Code §§ 226.7 and 512 for Defendants' failure to provide meal
14 periods without paying Plaintiffs and class members premium wages for every day
15 said meal periods were not provided in;
- 16 (d) Violation of Labor Code § 226.7 for Defendants' failure to authorize or permit rest
17 breaks without paying Plaintiffs and class members premium wages for every day
18 said rest breaks were not authorized or permitted;
- 19 (e) Failing to provide Plaintiff ARELY REYES and class members with accurate
20 itemized wage statements in violation of Labor Code § 226;
- 21 (f) Failing to pay all accrued vacation benefits to Plaintiffs and former class members
22 in violation of Labor Code § 227.3;
- 23 (g) Failing to timely pay all earned wages to Plaintiffs and class members upon
24 separation of employment in violation of Labor Code §§ 201, 202 and 203;
- 25 (h) Failing to timely pay all earned wages and compensation to Plaintiffs and class
26 members in violation of Labor Code §§ 201, 202, 204.1, or 204.2; and
- 27 (i) Failing to provide either Plaintiffs or her fellow members of the Class the written
28 notice required pursuant to the California's Wage Theft Prevention Act, codified

1 in part in California Labor Code § 2810.5.

2 140. Defendants intentionally avoided paying Plaintiffs and class members' wages and
3 monies, thereby creating for Defendants an artificially lower cost of doing business in order to
4 undercut their competitors and establish and gain a greater foothold in the marketplace.

5 141. Pursuant to Business and Professions Code §§ 17200, et seq. Plaintiffs and class
6 members are entitled to restitution of the wages unlawfully withheld and retained by Defendants
7 during a period that commences four years prior to the filing of the Complaint; an award of
8 attorney's fees pursuant to Code of Civil Procedure § 1021.5 and other applicable laws; and an
9 award of costs.

10 **ELEVENTH CAUSE OF ACTION**

11 **(PRIVATE ATTORNEY GENERAL ACT – LABOR CODE §§ 2698, et seq.)**

12 **(Against All Defendants)**

13 142. Plaintiff ARELY REYES hereby re-alleges and incorporates by reference all
14 paragraphs in this First Amended Complaint as though fully set forth herein.

15 143. At all times relevant hereto, California law, including, but not limited to, Labor
16 Code §§ 2698, et seq., known as the Labor Code Private Attorneys General Act of 2004
17 ("PAGA"), provided an aggrieved employee, on behalf of himself or herself and other current or
18 former employees, through a civil action, a procedure to recover those civil penalties to be
19 assessed against Defendants and collected by the Labor and Workforce Development Agency or
20 any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of
21 the Labor Code.

22 144. At all times relevant hereto, California law, including, but not limited to, Labor
23 Code § 2699, provided in pertinent part: "(a) Notwithstanding any other provision of law, any
24 provision of this code that provides for a civil penalty to be assessed and collected by the Labor
25 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
26 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
27 civil action brought by an aggrieved employee on behalf of himself or herself and other current or
28 former employees pursuant to the procedures specified in Section 2699.3. (b) For purposes of

1 this part, "person" has the same meaning as defined in Section 18. (c) For purposes of this part,
2 "aggrieved employee" means any person who was employed by the alleged violator and against
3 whom one or more of the alleged violations was committed."

4 145. At all times relevant hereto, California law, including, but not limited to, Labor
5 Code § 2699(e), provided in pertinent part: "(1) For purposes of this part, whenever the Labor and
6 Workforce Development Agency, or any of its departments, divisions, commissions, boards,
7 agencies, or employees, has discretion to assess a civil penalty, a court is authorized to exercise
8 the same discretion, subject to the same limitations and conditions, to assess a civil penalty....
9 (f)(2) If, at the time of the alleged violation, the person employs one or more employees, the civil
10 penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
11 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
12 subsequent violation...(g) (1) Except as provided in paragraph (2), an aggrieved employee may
13 recover the civil penalty described in subdivision (f) in a civil action pursuant to the procedures
14 specified in Section 2699.3 filed on behalf of himself or herself and other current or former
15 employees against whom one or more of the alleged violations was committed. Any employee
16 who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs.
17 Nothing in this part shall operate to limit an employee's right to pursue or recover other remedies
18 available under state or federal law, either separately or concurrently with an action taken under
19 this part...."

20 146. Plaintiff is informed and believes and thereon alleges that at all times pertinent
21 hereto, the PAGA, codified in California Labor Code §§ 2698, et seq., applied to the Labor Code
22 violations alleged herein against Defendants.

23 147. Plaintiff is informed and believes and thereon allege that at all times pertinent
24 hereto they each were an "aggrieved employee" of Defendants, as that phrase is statutorily
25 defined pursuant to Labor Code § 2699(c); in particular, Plaintiff and fellow members of the
26 Class/aggrieved employees were persons employed by the alleged violators, i.e. Defendants, and
27 against whom one or more of the alleged violations was committed.
28

1 148. Plaintiff has complied with all procedural requirements of the PAGA codified in
2 California Labor Code §§ 2698, et seq.

3 149. In particular, on December 11, 2015, Plaintiff, as an aggrieved employee of
4 Defendants and representatives of the Class, gave written Notice by certified mail to the
5 California Labor and Workforce Development Agency and Defendants, of provisions of the
6 California Labor Code alleged to have been violated by Defendants, including the facts and
7 theories to support the alleged violations (the “Notice”).

8 150. A true and correct copy of aggrieved employees, Plaintiff’s Notice to the
9 California Labor and Workforce Development Agency and Defendants is attached hereto as
10 Exhibit “A”.

11 151. Plaintiff is informed and believes and thereon alleges that she is statutorily
12 authorized to commence a civil action against Defendants pursuant to the PAGA, including Labor
13 Code §§ 2698, 2699, 2699.3 and 2699.5, as either the California Labor and Workforce
14 Development has notified the employer and Plaintiff by certified mail that it does not intend to
15 investigate the alleged violation within thirty (30) calendar days of the postmark date of their
16 receipt of the Notice or at least thirty three (33) calendar days have elapsed from the postmark
17 date of the Notice with the California Labor and Workforce Development having not provided
18 notification of any intention to investigate the alleged violations.

19 152. Plaintiff is informed and believes and thereon allege that at all times pertinent
20 hereto, California Labor Code § 2699.3(a)(2)(C) provided, “Notwithstanding any other provision
21 of law, a plaintiff may as a matter of right amend an existing complaint to add a cause of action
22 arising under this part at any time within 60 days of the time periods specified in this part.”

23 153. As a result of Defendants’ violations of the California Labor Code enumerated
24 herein above, pursuant to California Labor Code § 2699(f)(1), Plaintiff and her fellow members
25 of the Class/aggrieved employees are entitled to recover a civil penalty of one hundred dollars
26 (\$100) for each aggrieved employee per pay period for the initial violation and two hundred
27 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, as well
28

1 as an award of reasonable attorney's fees and costs pursuant to California Labor Code §
2 2699(g)(1).

3 154. Plaintiff is informed and believes and thereon alleges that at all times pertinent
4 hereto, California Labor Code § 2699(g)(1) provided in pertinent part, "...Nothing in this part
5 shall operate to limit an employee's right to pursue or recover other remedies available under
6 state or federal law, either separately or concurrently with an action taken under this part...."

7 155. Plaintiff is informed and believes and thereon alleges that at all times pertinent
8 hereto, Labor Code § 558 provided in pertinent part, "(a) Any employer or other person acting on
9 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
10 provision regulating hours and days of work in any order of the IWC shall be subject to a civil
11 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
12 for each pay period for which the employee was underpaid in addition to an amount sufficient to
13 recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
14 underpaid employee for each pay period for which the employee was underpaid in addition to an
15 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
16 be paid to the affected employee.... (c) The civil penalties provided for in this section are in
17 addition to any other civil or criminal penalty provided by law."

18 156. As a result of Defendants' violations of the California Labor Code enumerated
19 herein above, pursuant to California Labor Code § 558, Plaintiff and her fellow members of the
20 Class/aggrieved employees are entitled to recover a civil penalty of fifty dollars (\$50) for each
21 aggrieved employee per pay period for the initial violation, in addition to an amount sufficient to
22 recover underpaid wages, and one hundred dollars (\$100) for each aggrieved employee per pay
23 period for each subsequent violation, in addition to an amount sufficient to recover underpaid
24 wages, as well as reasonable attorney's fees and costs pursuant to California Labor Code §
25 2699(g)(1).

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1 **PRAYER FOR RELIEF**

2 Plaintiffs, on their own behalf and on behalf of all others similarly situated, pray for relief
3 and judgment against Defendants, jointly and severally, as follows:

4 1. For certification of this action as a class action, including certifying the Class
5 and/or Subclass alleged by Plaintiffs;

6 2. For appointment of ARELY REYES and ALBERTO BAUTISTA as the class
7 representatives;

8 3. For appointment of LAW OFFICE OF ROBERT W. SKRIPKO, JR., APLC; and
9 DENIS & RASI, PC; as class counsel for all purposes;

10 4. For compensatory damages in an amount according to proof with interest thereon;

11 5. For economic and/or special damages in an amount according to proof with
12 interest thereon;

13 6. For liquidated damages pursuant to Labor Code § 1194.2;

14 7. For reasonable attorney's fees, costs of suit and interest to the extent permitted by
15 law, including pursuant to Code of Civil Procedure § 1021.5, and Labor Code §§ 218.5, 226,
16 1194, 1194.3, and as otherwise permitted by statute;

17 8. For statutory penalties to the extent permitted by law, including those pursuant to
18 the Labor Code and IWC Wage Orders;

19 9. For restitution as provided by Business and Professions Code §§ 17200, et seq.;

20 10. For an order requiring Defendants to restore and disgorge all funds to each
21 employee acquired by means of any act or practice declared by this Court to be unlawful, unfair
22 or fraudulent and, therefore, constituting unfair competition under Business and Professions Code
23 §§ 17200, et seq.;

24 11. For a declaration that Los Altos is a client employer that shares with the labor
25 contractor, Premier Staffing, in all civil legal responsibility and civil liability for the payment of
26 wages owed to Plaintiffs and their fellow putative Class Members and aggrieved employees
27 supplied by Premeir Staffing to Los Altos.
28

12. For an award of damages in the amount of unpaid compensation including, but not limited to, unpaid wages, benefits and penalties, including interest thereon;

13. For pre-judgment interest;

14. For civil penalties as authorized by statute including, but not limited to, the California Labor Code § 2699(f)(1) , providing for an award of civil penalties to Plaintiffs and the aggrieved employees against Defendants of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

15. For civil penalties as authorized by statute including, but not limited to, the California Labor Code § 558, providing for an award of civil penalties to Plaintiffs and the aggrieved employees against Defendants of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, in addition to an amount sufficient to recover underpaid wages, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation, in addition to an amount sufficient to recover underpaid wages; and

16. For such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs and proposed Class Representatives, ARELY REYES and ALBERTO BAUTISTA, individually and on behalf of all those similarly situated members of the Class/aggrieved employees, hereby demand trial by jury in this action.

**LAW OFFICE OF
ROBERT W. SKRIPKO, J JR., PC**



Dated: May 25, 2016

By: _____

ROBERT W. SKRIPKO, JR.
Attorneys for Plaintiffs and putative
Class Representatives, ARELY REYES
and ALBERTO BAUTISTA, individually
and on behalf of all other similarly situated
and aggrieved employees

EXHIBIT “A”

December 11, 2015

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

California Labor and Workforce Development Agency
(Tracking #: 7015 1660 0000 1720 8288)
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Los Altos Food Products, Inc.
(Tracking #: 7015 1660 0000 1720 8257)
Agent for Service: Raul Andrade
450 Baldwin Park
City of Industry, CA 91746

Premier Staffing Management Inc.
(Tracking #: 7013 3020 0002 0784 4542)
Agent for Service: James Sanchez
10970 Arrow Route, Ste. 101
Rancho Cucamonga, CA 91730

Re: *Arely Reyes, et al. v. Los Altos Food Products, Inc., et al.*

Dear Labor and Workforce Development Agency, Los Altos Food Products, Inc., and Premier Staffing Management Inc.:

Please allow this correspondence to serve as written notice required by California Labor Code section 2699.3(a)(1) of the specific provisions of the Labor Code allegedly violated by Defendants Los Altos Food Products, Inc. (hereinafter "Los Altos"), and Premier Staffing Management Inc. (hereinafter "Premier Staffing" or collectively, "Defendants"), and the facts and theories in support of said allegations. This firm represents Arely Reyes ("Ms. Reyes" or "Claimant").

Specific Provisions of the Labor Code Allegedly Violated by Defendants

The specific provisions of the Labor Code allegedly violated by Defendants include the following: 201, 202, 203, 204, 204.1, 204.2, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194.3, 1194, 1194.2, 1197, 1198, 2810.3, and 2810.5.

Facts and Theories Supporting the Allegations Against Defendants

Ms. Reyes began working for Defendants a non-exempt, hourly position at Defendants' Los Angeles County, California business location in cheese production from approximately 2007 to approximately June 2015 earning approximately \$9.00 per hour. Plaintiff's job duties included, working on the assembly line, packing products, and palletizing.

Los Altos is a manufacturer of cheese in the City of Industry, County of Los Angeles, specializing in the making of Mexican-style cheese and other related products. Premier Staffing is an employment staffing agency providing employees for employers in the County of San Bernardino, California.

Throughout the course of her employment, Defendants failed to provide Claimant with proper meal periods including but not limited to not allowing employees to take a full, thirty (30) minute lunch before the end of her fifth hour worked. As a result, Defendants regularly required employees to work during their meal break. As a consequence of working during meal periods, Claimant was never relieved of all of her duties, and thus, was unable to take full, uninterrupted meal breaks as required by law. Additionally, Defendants had a policy and practice of automatically deducting 30 minutes from Claimant and fellow employees' time records for meal periods, regardless of whether the meal period was actually taken or whether it was compliant under California labor laws. Defendants did not compensate Claimant for the interrupted, short, and/or late meal breaks. Defendants also failed to provide Claimant two full, uninterrupted, and consecutive ten (10) minute rest periods, and did not receive compensation in lieu of said missed rest periods. Defendants also had a policy of not compensating Claimant and fellow aggrieved employees with all accrued vacations benefits. Defendants failed to provide Claimant and her fellow aggrieved employees the requisite written notice in compliance with Labor Code section 2810.5. Defendants further maintained a policy and practice of not compensating Claimant and her fellow employees for all hours worked, including regular, overtime, double time, earned, in accordance with the Labor Code and applicable IWC and Wage order. Further, Defendants failed pay Employees' all wages earned by improperly excluding quality assurance/production incentive bonuses into Employees' regular and overtime rate of pay. Additionally, when Claimant and fellow employees worked a split shift—which means a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods—Defendants failed to pay Claimant and fellow employees one hour's pay at the minimum wage paid in addition to the minimum wage for that workday. Defendants' practices regarding wages, overtime, double time, meal breaks, rest breaks, wages notices, and vacations benefits are a violation of California Law. Claimant will further allege that Defendants employed Claimant and all other aggrieved employees for longer that the hours set by the IWC Wage Orders. Claimant will also allege that Defendants maintained unlawful policies due to its uniform policy, practice and procedure of willfully failing to pay the earned and unpaid wages of all such former employees. Defendants also failed to maintain proper records.

As an actual and proximate result of Defendants' unlawful employment actions, Claimant was not issued accurate wage statements and did not receive all remuneration to which she was entitled at the cessation of her employment. At the time Claimant's employment ended, on or about June 2015, Claimant had unpaid wages, including, but not limited to, meal and rest premiums; wages; and vacation benefits; which have still not been paid.

Thank you for your assistance on this issue. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,

DENIS & RASI, PC

Paul Denis