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Attorneys for Plaintiff REFUGIO GARCIA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

REFUGIO GARCIA, as an individual and  
on behalf of all others similarly situated,

Plaintiff,

vs.

HUNTINGTON LIBRARY ART  
COLLECTIONS AND BOTANICAL  
GARDENS, a Charitable Trust, HENRY  
E. HUNTINGTON LIBRARY AND ART  
GALLERY, corporate form unknown; and  
DOES 1 through 100, inclusive,

Defendants.

Case No.: 22STCV30738

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

- (1) **FAILURE TO PAY ALL MINIMUM  
WAGES OWED (LABOR CODE §§ 1194,  
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL OVERTIME  
WAGES OWED (LABOR CODE §§ 204,  
510, 558, 1194, 1198);**
- (3) **FAILURE TO PROVIDE MEAL PERIODS  
(LABOR CODE §§ 226.7, 512, 558);**
- (4) **FAILURE TO AUTHORIZE AND PERMIT  
REST PERIODS (LABOR CODE §§ 226.7,  
516);**
- (5) **FAILURE TO PROVIDE ACCURATE,  
ITEMIZED WAGE STATEMENTS  
(LABOR CODE § 226 *et seq.*);**
- (6) **FAILURE TO REIMBURSE NECESSARY  
BUSINESS EXPENSES (LABOR CODE §  
2802);**
- (7) **UNFAIR COMPETITION (BUS & PROF  
CODE § 17200 *et seq.*);**

1 (8) CIVIL PENALTIES UNDER THE  
2 PRIVATE ATTORNEYS GENERAL ACT  
(LABOR CODE § 2698 *et seq.*); and

3 (9) FAILURE TO TIMELY PAY ALL WAGES  
4 UPON TERMINATION (LABOR CODE §§  
5 201-203)

6 DEMAND FOR JURY TRIAL  
7 UNLIMITED CIVIL CASE  
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1 Plaintiff Refugio Garcia (“Plaintiff”), on behalf of himself and all others similarly situated,  
2 hereby brings this Second Amended Class and Representative Action Complaint (“SAC”) against  
3 Huntington Library Art Collections and Botanical Gardens, a Charitable Trust, Henry E.  
4 Huntington Library and Art Gallery, corporate form unknown, and DOES 1 to 100, inclusive  
5 (collectively “Defendants”), and on information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this  
8 SAC for recovery of unpaid wages and penalties under California Business and Professions Code  
9 § 17200 *et. seq.*, Labor Code §§ 201-203, 204, 218 *et seq.*, 226 *et seq.*, 226.7, 510, 512, 516, 558,  
10 1194, 1194.2, 1197, 1198, 2802, 2698 *et seq.*, and Industrial Welfare Commission Wage Order  
11 10 (the “Wage Order 10”), in addition to seeking declaratory relief and restitution. This Complaint  
12 is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over  
13 Defendants’ violations of the California Labor Code because the amount in controversy exceeds  
14 this Court's jurisdictional minimum.

15 **VENUE**

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

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,  
23 Plaintiff was a California resident. During the four years immediately preceding the filing of the  
24 Complaint in this action and within the statute of limitations periods applicable to each cause of  
25 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff  
26 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money  
27 and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 201-203, 204,  
28 218.5, 218.6, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1194, 1194.2, 1197, 1198, 2802, 2698 *et seq.*,

1 and California Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law” or  
2 “UCL”); and Wage Order 10, which sets employment standards for the Amusement and  
3 Recreation Industry, which includes the industry in which Plaintiff worked for Defendants.

4 4. Plaintiff is informed and believes, and based thereon alleges, that during the four  
5 years preceding the filing of the lawsuit and continuing to the present, Defendants did (and  
6 continue to do) business as a collections-based educational and research institution established by  
7 Henry E. Huntington and Arabella Huntington in San Marino, California. Defendants employed  
8 Plaintiff and other, similarly-situated non-exempt employees within Los Angeles County and the  
9 state of California and, therefore, were (and are) doing business in Los Angeles County and the  
10 State of California.

11 5. Plaintiff does not know the true names or capacities, whether individual, partner,  
12 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said  
13 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to  
14 amend this FAC when such true names and capacities are discovered. Plaintiff is informed, and  
15 believes, and based thereon alleges, that each of said fictitious defendants, whether individual,  
16 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,  
17 and proximately caused Plaintiff and the Classes (as defined in Paragraph 20) to be subject to the  
18 unlawful employment practices, wrongs, injuries and damages complained of herein.

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

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

28 8. At all times mentioned herein, Defendants, and each of them, were members of

1 and engaged in a joint venture, partnership, and common enterprise, and acting within the course  
2 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,  
3 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all  
4 members of the Classes.

### 5 **GENERAL FACTUAL ALLEGATIONS**

6 9. Plaintiff, a former non-exempt employee, was employed by Defendants beginning  
7 in approximately 1981 and went on a leave of absence in approximately February 2021. During  
8 his employment with Defendants, Plaintiff worked as a non-exempt employee who drove tractors  
9 in the garden. Plaintiff separated his employment with Defendants in or around January 2023.

10 10. During his employment with Defendants, Plaintiff was generally scheduled to  
11 work from 6:30 a.m. to 3:08 p.m. Monday through Friday. However, Plaintiff would often work  
12 more than eight (8) hours per day and/or forty (40) hours per week.

13 11. During his employment with Defendants, Defendants would keep track of  
14 Plaintiff's time worked and would unlawfully shave Plaintiff's work time and/or round Plaintiff's  
15 work time such that Plaintiff would not be fully paid for all time worked. This time-shaving  
16 and/or rounding practice utilized by Defendants was not even-handed over time and would almost  
17 exclusively round and shave in Defendants' favor such that Plaintiff was routinely unpaid for his  
18 time worked. As a result, Defendants failed to pay Plaintiff all required minimum and overtime  
19 wages.

20 12. Additionally, in connection with the COVID-19 pandemic and during the most  
21 recent portion of Plaintiff's employment with Defendants, Defendants required Plaintiff and their  
22 other non-exempt employees to be subjected to temperature checks and a multi-question  
23 questionnaire before they were allowed to clock in and commence work. Despite being under  
24 Defendants' direction and control and being required to undergo the temperature checks and  
25 questions for the benefit of Defendants, Defendants failed to compensate Plaintiff or the other  
26 employees for this compensable time. As a result, Defendants failed to pay Plaintiff all required  
27 minimum and overtime wages.

28 13. Throughout Plaintiff's employment with Defendants, Plaintiff was not provided

1 all legally required meal periods due to Defendants' meal period policies and practices, which  
2 fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work and  
3 fail to provide second duty-free 30-minute meal periods for shifts of over 10.0 hour in violation  
4 of California. Specifically, as a result of the work demands imposed by Defendants, Defendants  
5 often provided meal periods that were either late or short or failed to provide a required meal  
6 period altogether.

7 14. Although Plaintiff was not provided with all legally-compliant meal periods to  
8 which he was entitled, Defendants failed to compensate Plaintiff with the required meal period  
9 premium for each workday in which he experienced a meal period violation as mandated by Labor  
10 Code § 226.7.

11 15. Plaintiff was also not authorized and permitted to take all legally required and  
12 compliant rest periods due to Defendants' rest period policies and practices. Specifically, as a  
13 result of the work demands imposed by Defendants, Defendants did not authorize and permit one  
14 rest period for every four hours worked, or *major fraction thereof*.

15 16. On those occasions when Plaintiff was not authorized and permitted to take all  
16 legally-compliant rest periods to which he was entitled, Defendants failed to compensate Plaintiff  
17 with the required rest period premium for each workday in which he experienced a rest period  
18 violation as mandated by Labor Code § 226.7.

19 17. During Plaintiff's employment with Defendants, Plaintiff was required to use his  
20 personal cellular phone to discharge his duties. Specifically, Plaintiff was required to use his  
21 personal cellular phone for a variety of required work activities, including, but not limited to  
22 communicating with other team members. Defendants knew or should have known that Plaintiff  
23 was necessarily incurring expenses due to the use of his personal cellular phone in the direct  
24 discharge of his duties. Yet, despite the necessity of Plaintiff using his personal cellular phone  
25 for work activities and Defendants knowing or should have knowing about same, Plaintiff was  
26 never reimbursed for a reasonable portion of his cellular phone expenses by Defendants, as  
27 mandated by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

28 18. As a result of Defendants' failure to pay all minimum wages, overtime wages, as

well as meal period premium wages and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff. Further, Defendants issued wage statements that failed to include the legal entity that employed Plaintiff in violation of Labor Code section 226.

19. As a further result of Defendants' failure to pay all minimum and overtime wages owed, and failure to pay all meal and rest period premium wages, Defendants failed to timely pay all wages owed Plaintiff and other former hourly, non-exempt employees upon their separation of employment from Defendants in violation of Labor Code § 203.

### **CLASS ACTION ALLEGATIONS**

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

- a. The Minimum Wage Class: consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies/practices, during the four years preceding the filing of the lawsuit through the present.
- b. The Overtime Class: consists of all of Defendants' current and former non-exempt employees in California who worked more than eight hours per day and/or forty hours per week and subject to Defendants' timekeeping policies/practices, during the four years immediately preceding the filing of this lawsuit through the present date.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees who: (i) worked at least one shift in excess of 5.0 hours, during the four years immediately preceding the filing of the lawsuit through the present.
- d. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 3.5 hours during the four years immediately preceding the filing of the lawsuit through the present.

e. The Wage Statement Class consists of all members of the: (i) Minimum Wage Class; (ii) Overtime Class; (iii) Meal Period Class; and/or (iv) Rest Period Class during the one year immediately preceding the filing of the Complaint through the present.

f. The Expense Reimbursement Class consist of all of Defendants' current and former non-exempt employees in California who incurred expenses in the discharge of their duties during the four years immediately preceding the filing of the Complaint through the present.

g. The Waiting Time Penalty Class consists of Defendants' formerly employed members of the: (i) Minimum Wage Class; (ii) Overtime Class; (ii) Meal Period Class; and/or (iv) Rest Period Class, during the three years immediately preceding the filing of the lawsuit through the present.

h. The UCL Class consists of members of the: (i) Minimum Wage Class; (ii) Overtime Class; (iii) Meal Period Class; (iv) Rest Period Class; (v) Wage Statement Class; (vi) Expense Reimbursement Class; and (vii) Waiting Time Penalty Class.

21. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court, to amend or modify the description of the various classes with greater specificity or further division into subclasses or limitation to particular issues.

22. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants' timekeeping policies and/or practices resulted in the failure to properly compensate members of the Overtime and Minimum Wage Classes for all hours actually worked;
- ii. Whether Defendants violated the applicable Labor Code provisions including, but not limited to §§ 510 and 1194 by requiring overtime work and not paying for said work according to the overtime laws of the State of California;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iv. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- v. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- vi. Whether Defendants' policies and practices (or lack thereof) for reimbursing members of the Expense Reimbursement Class violated California law;
- vii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of their separation of employment were lawful; and
- viii. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether as a result Defendants owe the classes restitution.

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

1           25.     **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because  
2 Plaintiff was employed by Defendants as a non-exempt employee in California during the  
3 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As  
4 alleged herein, Plaintiff, like the members of the Classes, was not provided all legally required  
5 minimum and overtime wages, was not provided with all required meal periods, was not  
6 authorized and permitted to take all required rest periods, did not receive meal and rest period  
7 premium wages when he was not provided compliant meal and rest periods, was not provided  
8 with accurate, itemized wage statements, was not reimbursed for necessary business expenses,  
9 and was not paid all wages owed upon separation of employment.

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

16           27.     **Superiority:** The California Labor Code is broadly remedial in nature and serves  
17 an important public interest in establishing minimum working conditions and standards in  
18 California. These laws and labor standards protect the average working employee from  
19 exploitation by employers who have the responsibility to follow the laws and who may seek to  
20 take advantage of superior economic and bargaining power in setting onerous terms and  
21 conditions of employment. The nature of this action and the format of laws available to Plaintiff  
22 and members of the Classes make the class action format a particularly efficient and appropriate  
23 procedure to redress the violations alleged herein. If each employee were required to file an  
24 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they  
25 would be able to exploit and overwhelm the limited resources of each individual plaintiff with  
26 their vastly superior financial and legal resources. Moreover, requiring each member of the  
27 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by  
28 employees who would be disinclined to file an action against their former and/or current employer

1 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent  
2 employment. Further, the prosecution of separate actions by the individual class members, even  
3 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications  
4 with respect to the individual class members against Defendants herein; and which would  
5 establish potentially incompatible standards of conduct for Defendants; and/or legal  
6 determinations with respect to individual class members which would, as a practical matter, be  
7 dispositive of the interest of the other class members not parties to adjudications or which would  
8 substantially impair or impede the ability of the class members to protect their interests. Further,  
9 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous  
10 individual prosecution considering all of the concomitant costs and expenses attending thereto.  
11 As such, the Classes identified in Paragraph 20 are maintainable as a Class under § 382 of the  
12 Code of Civil Procedure.

13 **FIRST CAUSE OF ACTION**

14 **FAILURE TO PAY ALL MINIMUM WAGES OWED**

15 **(AGAINST ALL DEFENDANTS)**

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

17 29. This cause of action is brought pursuant to Labor Code §§ 204, 558, 1194, 1197  
18 and 1198 which provide that all non-exempt employees are entitled to all minimum wages for all  
19 hours worked, and provide a private right of action for the failure to pay all minimum wage  
20 compensation for all work performed.

21 30. At all times relevant herein, Defendants were required to properly compensate  
22 Plaintiff and the members of the Minimum Wage Class for all hours worked pursuant to  
23 California Labor Code §§ 1194, 1197 and 1198, and the Wage Order 10. The Wage Order 10,  
24 Section 4 requires an employer to pay to every employee on the established payday for the period  
25 involved not less than the applicable minimum wage for all hours worked in the payroll period.  
26 Defendants caused Plaintiff and the members of the Minimum Wage Class to work hours in a  
27 workweek but did not properly compensate Plaintiff and the members of the Minimum Wage  
28 Class at least minimum wages for such hours.

31. At all times relevant herein, Defendants lacked good faith and had no reasonable grounds for believing that their practices in failing to pay all minimum wages owed at the applicable rate was not a violation of any provision of the Labor Code relating to minimum wage, or an order of the Industrial Welfare Commission. Defendants therefore, in addition to owing minimum wages to Plaintiff and the members of the Minimum Wage Class, also owe liquidated damages in an amount equal to the wages unlawfully unpaid, and interest thereon, pursuant to Labor Code § 1194.2.

32. The foregoing practices and policies are unlawful and create entitlement to recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages owing, including interest thereon, as well as statutory penalties, liquidated damages, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 558, 1194, 1194.2, 1197, 1197.1 and 1198, the Wage Order 10, California Code of Civil Procedure § 1021.5 California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

## **SECOND CAUSE OF ACTION**

### **FAILURE TO PAY ALL OVERTIME WAGES OWED**

#### **(AGAINST ALL DEFENDANTS)**

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

34. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198 which provide that all non-exempt employees are entitled to all overtime wages for all overtime worked (hours in excess of 8 in one day and/or 40 in one week), and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

35. At all times relevant herein, Defendants were required to properly compensate Plaintiff and the members of the Overtime Class for all overtime hours worked pursuant to California Labor Code §§ 510 and 1194, and the Wage Order 10. Labor Code § 510 and the Wage Order 10, Section 3 require an employer to pay an employee "one and one-half (1½) times the regular rate of pay" for work in excess of 8 hours per workday and/or in excess of 40 hours per workweek. Labor Code § 510 and the Wage Order 9, Section 3 also require an employer to

1 pay an employee double the employee's regular rate for work in excess of 12 hours each workday  
2 and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants  
3 caused Plaintiff and the members of the Overtime Class to work in excess of 8 hours in a workday  
4 and/or 40 hours in a workweek but did not properly compensate Plaintiff and the members of the  
5 Overtime Class at one and one-half their regular rate of pay for such hours.

6 36. The foregoing practices and policies are unlawful and create entitlement to  
7 recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid  
8 amount of overtime premium owing, including interest thereon, as well as statutory penalties,  
9 civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 210, 216,  
10 218.5, 218.6, 510, 558, 1194 and 1198, the Wage Order 9, California Code of Civil Procedure §  
11 1021.5 California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

### 12 **THIRD CAUSE OF ACTION**

#### 13 **FAILURE TO PROVIDE MEAL PERIODS**

#### 14 **(AGAINST ALL DEFENDANTS)**

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

16 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
17 failed in their affirmative obligation to provide all of their non-exempt employees in California,  
18 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods  
19 in accordance with the mandates of the California Labor Code and the Wage Order 10, § 11.  
20 Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and  
21 members of the Meal Period Class at their respective regular rates of pay, in accordance with  
22 California Labor Code §§ 204, 210, 226.7, and 512.

23 39. As a result, Defendants are responsible for paying premium compensation for meal  
24 period violations pursuant to Labor Code §§ 226.7, 512, and 558, and the Wage Order 10,  
25 including interest thereon, statutory penalties, civil penalties, and costs of suit.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

3 **(AGAINST ALL DEFENDANTS)**

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

5 41. The Wage Order 10, § 12 and California Labor Code §§ 226.7, 516 and 558  
6 establish the right of employees to be authorized and permitted to take a paid rest period of at  
7 least ten (10) minutes net rest time for each four (4) hour period worked, or *major fraction thereof*.

8 42. As alleged herein, Defendants failed to authorize and permit Plaintiff and members  
9 of the Rest Period Class to take all required rest periods.

10 43. The foregoing violations create an entitlement to recovery by Plaintiff and  
11 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums  
12 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according  
13 to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

14 //

15 **FIFTH CAUSE OF ACTION**

16 **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

17 **(AGAINST ALL DEFENDANTS)**

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

19 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
20 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff  
21 and members of the Wage Statement Class with complete and accurate wage statements with  
22 respect to their rates of pay, hours worked at each rate of pay, total gross wages earned, and total  
23 net wages earned in violation of Labor Code § 226 *et seq.* Further, the wage statements issued  
24 failed to include the legal entity that employed Plaintiff and members of the Wage Statement  
25 Class.

26 46. Defendants' failures in furnishing Plaintiff and members of the Wage Statement  
27 Class with complete and accurate itemized wage statements resulted in actual injury, as said  
28 failures led to, among other things, the non-payment of all earned overtime and/or minimum

1 wages as well as meal and rest period premium wages, and deprived them of the information  
2 necessary to identify the discrepancies in Defendants' reported data.

3 47. Defendants' failures create an entitlement to recovery by Plaintiff and members of  
4 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor  
5 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and  
6 costs of suit according to California Labor Code § 226 *et seq.*

7 **SIXTH CAUSE OF ACTION**

8 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

9 **(AGAINST ALL DEFENDANTS)**

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

11 49. It was necessary and at the obedience and/or direction of Defendants for Plaintiff  
12 and members of the Expense Reimbursement Class to use their personal cellular phones to  
13 perform their job duties, and thereby incur expenses. It was also necessary for members of the  
14 Expense Reimbursement Class to necessarily incur other business expenses in the direct discharge  
15 of their duties.

16 50. Defendants knew or should have known that Plaintiff and members of the Expense  
17 Reimbursement Class necessarily incurred expenses as part of the use of personal cellular phones  
18 for the discharge of their duties at Defendants' direction, and also incurred other business  
19 expenses.

20 51. Although Plaintiff and members of the Class incurred these expenses in the direct  
21 discharge of their job duties, Defendants did not reimburse these employees for such necessary  
22 work expenditures during the four years preceding the filing of the Complaint.

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

27 53. As a proximate result of Defendants' policies and/or practices in violation of Labor  
28 Code §§ 2802 and 2804, and Wage Order 10, § 9, Plaintiff and members of the Expense

1 Reimbursement Class were damaged in sums, which will be shown according to proof.

2 54. Plaintiff and members of the Expense Reimbursement Class are entitled to  
3 attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

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

8 **SEVENTH CAUSE OF ACTION**

9 **UNFAIR COMPETITION**

10 **(AGAINST ALL DEFENDANTS)**

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

12 57. Defendants have engaged and continue to engage in unfair and/or unlawful  
13 business practices in California in violation of California Business and Professions Code § 17200  
14 *et seq.*, by failing to properly pay all minimum and overtime wages, provide all required meal  
15 periods and authorize and permit all required rest periods, pay premium payments in lieu thereof,  
16 reimburse necessary business expenses, or timely pay all wages due upon separation from  
17 employment.

18 58. Defendants' utilization of these unfair and/or unlawful business practices deprived  
19 Plaintiff and continues to deprive members of the Classes of compensation to which they are  
20 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage  
21 over Defendants' competitors who have been and/or are currently employing workers and  
22 attempting to do so in honest compliance with applicable wage and hour laws.

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

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

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

6                                   **EIGHTH CAUSE OF ACTION**

7                   **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

8                                   **(AGAINST ALL DEFENDANTS)**

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

10          63. Defendants have committed several Labor Code violations against Plaintiff and  
11 other Aggrieved Employees. Plaintiff, an "Aggrieved Employee" within the meaning of Labor  
12 Code § 2698 *et seq.*, acting on behalf of himself and other Aggrieved Employees, brings this  
13 representative action against Defendants to recover the civil penalties due to Plaintiff, the other  
14 aggrieved employees, and the State of California according to proof pursuant to Labor Code §  
15 2699 (a) and (f) including, but not limited to: (1) \$250.00 for each initial violation and \$1,000.00  
16 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or  
17 (2) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per  
18 pay period for those violations of the Labor Code for which no civil penalty is specifically  
19 provided, based on the following Labor Code violations:

- 20                   a) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay  
21 Plaintiff and other Aggrieved Employees the statutory minimum wage for all  
22 hours worked;
- 23                   b) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to  
24 pay Plaintiff and other Aggrieved Employees all overtime compensation earned;
- 25                   c) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all  
26 legally required meal periods and failing to pay meal period premiums to  
27 Plaintiff and other Aggrieved Employees;
- 28

- 1 d) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all  
2 legally required rest periods and failing to pay rest period premiums to Plaintiff  
3 and other Aggrieved Employees;
- 4 e) Defendants violated Labor Code § 2802 by failing to reimburse Plaintiff and  
5 other Aggrieved Employees for necessary work expenditures;
- 6 f) Defendants violated Labor Code § 226 by failing to furnish Plaintiff and other  
7 Aggrieved Employees with accurate and compliant itemized wage statements;
- 8 g) Defendants violated Labor Code § 204 by failing to pay Plaintiff and other  
9 Aggrieved Employees all earned wages at least twice during each calendar  
10 month;
- 11 h) Defendants violated Labor Code § 1174 by failing to maintain accurate records  
12 on behalf of Plaintiff and other Aggrieved Employees; and.
- 13 i) Defendants violated Labor Code §§ 201-204 by failing to pay all wages due  
14 during employment and timely pay such wages upon separation.

15 64. On September 20, 2022, Plaintiff notified Defendants via certified mail, and the  
16 California Labor and Workforce Development Agency (“LWDA”) via e-mail, of Defendants’  
17 violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties  
18 under California Labor Code § 2698 et seq. with respect to violations of the California Labor  
19 Code identified in Paragraph 63 (a)-(h). Attached hereto as **Exhibit 1** is a true and correct copy  
20 of the September 20, 2022 correspondence. Now that sixty-five days have passed from Plaintiff  
21 notifying Defendants of these violations and with the LWDA taking no action, Plaintiff has  
22 exhausted his administrative requirements for bringing a claim under the Labor Code Private  
23 Attorneys General Act with respect to these violations.

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

28 //

1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO PAY ALL FINAL WAGES UPON TERMINATION**

3 **(AGAINST ALL DEFENDANTS)**

4 66. Plaintiff re-alleges and incorporates by reference all previous paragraphs as though  
5 fully set forth herein.

6 67. This cause of action is brought pursuant to Labor Code §§ 201-204, which require  
7 an employer to pay all wages due during employment and immediately at the time of separation  
8 of employment in the event the employer discharges the employee or the employee provides at  
9 least 72 hours of notice of their intent to quit. In the event the employee provides less than 72  
10 hours of notice of their intent to quit, said employee's wages become due and payable not later  
11 than 72 hours upon said employee's last date of employment.

12 68. Defendants failed to timely pay the hourly, non-exempt employees all wages due  
13 during employment and all final wages due at the time of separation, which include, among other  
14 things, underpaid minimum and overtime wages and meal period and rest period premium  
15 wages. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of  
16 uniform policy and practice, Defendants continue to fail to pay members of the Waiting Time  
17 Penalty Class all earned wages at the end of employment in a timely manner pursuant to the  
18 requirements of Labor Code §§ 201-204. Defendants' failure to pay all final wages was willful  
19 within the meaning of Labor Code § 203.

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

25 **PRAYER**

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

- 28 1. For an order certifying the proposed Classes;

2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1194, 1194.2 and 1197;
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory wage statement penalties pursuant to Labor Code § 226 *et seq.*;
9. Upon the Sixth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the Class of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code

for which no civil penalty is specifically provided, based on the Labor Code violations cited in Paragraph 63 (a)-(h) above.

12. Upon the Ninth Cause of Action, for waiting time penalties pursuant to Labor Code § 203;

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

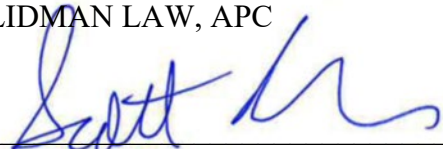
14. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 218.5 and Code of Civil Procedure § 1021.5 and all other applicable statutes; and

15. For such other and further relief the Court may deem just and proper.

Dated: July 6, 2023

Respectfully submitted,  
LIDMAN LAW, APC

By:

  
\_\_\_\_\_  
Scott M. Lidman  
Attorneys for Plaintiff  
REFUGIO GARCIA

**DEMAND FOR JURY TRIAL**

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

Dated: July 6, 2023

Respectfully submitted,  
LIDMAN LAW, APC

By:

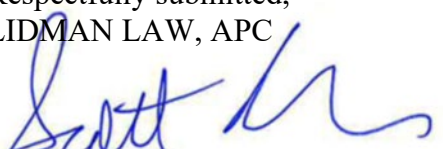
  
\_\_\_\_\_  
Scott M. Lidman  
Attorneys for Plaintiff  
REFUGIO GARCIA

EXHIBIT 1

EXHIBIT 1

# LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

September 20, 2022

**VIA LWDA WEBSITE**

Labor and Workforce Development Agency

Attn: PAGA Administrator

1515 Clay Street, Suite 801

Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Huntington Library Art Collections and Botanical Gardens

c/o Gregory A. Pieschala, Trustee

1151 Oxford Road

San Marino, CA 91108

**VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Henry E. Huntington Library and Art Gallery

c/o Gregory A. Pieschala, Trustee

1151 Oxford Road

San Marino, CA 91108

Re: *Refugio Garcia v. Huntington Library Art Collections and Botanical Gardens*

To Whom It May Concern:

Please be advised that this law firm represents Refugio Garcia in claims arising from his employment with Huntington Library Art Collections and Botanical Gardens, a Charitable Trust, and Henry E. Huntington Library and Art Gallery, corporate form unknown, (“Defendants”). Mr. Garcia is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendants’ numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires Aggrieved Employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Garcia intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all of Defendants’ all current and former non-exempt, hourly employees in California who have worked for Defendants, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Mr. Garcia, a current non-exempt employee, has been employed by Defendants since approximately 1981 and has been on a leave of absence since approximately February 2021. During his employment with Defendants, Mr. Garcia worked as a non-exempt employee who drove tractors in the garden.

During his employment with Defendants, Mr. Garcia was generally scheduled to work from 6:30 a.m. to 3:08 p.m. Monday through Friday. However, Mr. Garcia would often work more than eight (8) hours per day and/or forty (40) hours per week.

During his employment with Defendants, Defendants would keep track of Mr. Garcia's and other non-exempt, hourly employees' time worked and would unlawfully shave their work time and/or round their work time such that Mr. Garcia and other non-exempt, hourly employees would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendants was not even-handed over time and would almost exclusively round and shave in Defendants' favor such that Mr. Garcia and other non-exempt, hourly employees was routinely unpaid for his time worked. As a result, Defendants failed to pay Mr. Garcia and other non-exempt, hourly employees all required minimum and overtime wages.

Additionally, in connection with the COVID-19 pandemic and during the most recent portion of Mr. Garcia's and other non-exempt, hourly employees' employment with Defendants, Defendants required Mr. Garcia and their other non-exempt, hourly employees to be subjected to temperature checks and a multi-question questionnaire before they were allowed to clock in and commence work. Despite being under Defendants' direction and control and being required to undergo the temperature checks and questions for the benefit of Defendants, Defendants failed to compensate Mr. Garcia or the other non-exempt, hourly employees for this compensable time. As a result, Defendants failed to pay Mr. Garcia and other non-exempt, hourly employees all required minimum and overtime wages.

Throughout Mr. Garcia's employment with Defendants, Mr. Garcia and other non-exempt, hourly employees were not provided all legally required meal periods due to Defendants' meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work and fail to provide second duty-free 30-minute meal periods for shifts of over 10.0 hour in violation of California. Specifically, as a result of the work demands imposed by Defendants, Defendants often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Mr. Garcia and other non-exempt, hourly employees were not provided with all legally-compliant meal periods to which they were entitled, Defendants failed to compensate Mr. Garcia and other non-exempt, hourly employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Mr. Garcia and other non-exempt, hourly employees were also not authorized and permitted to take all legally required and compliant rest periods due to Defendants' rest period policies and practices. Specifically, as a result of the work demands imposed by Defendants, Defendants did not authorize and permit one rest period for every four hours worked, *or major fraction thereof*.

On those occasions when Mr. Garcia and other non-exempt, hourly employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendants failed to compensate Mr. Garcia and other non-exempt, hourly employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

During Mr. Garcia's employment with Defendants, Mr. Garcia and other non-exempt, hourly employees were required to use their personal cellular phones to discharge their duties. Specifically, Mr. Garcia and other non-exempt, hourly employees were required to use their personal cellular phone for a variety of required work activities, including, but not limited to communicating with other team members. Defendants knew or should have known that Mr. Garcia and other non-exempt, hourly employees were necessarily incurring expenses due to the use of their personal cellular phones in the direct discharge of their duties. Yet, despite the necessity of Mr. Garcia and other non-exempt, hourly employees using their personal cellular phones for work activities and Defendants knowing or should have knowing about same, Mr. Garcia and other non-exempt, hourly employees were never reimbursed for a reasonable portion of their cellular phone expenses by Defendants, as mandated by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

As a result of Defendants' failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Garcia and other non-exempt, hourly employees. Further, Defendants issued wage statements that failed to include the legal entity that employed Mr. Garcia and other non-exempt, hourly employees in violation of Labor Code section 226.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 10 ("Wage Order 10"):

#### Overtime Violations

Defendants were required to pay Mr. Garcia and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. See Labor Code §§ 1194(a) and 1198; the Wage Order 10, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked." As explained above, During his employment with Defendants, Defendants would keep track of Mr. Garcia's time worked and would unlawfully shave Mr. Garcia's work time and/or round Mr. Garcia's work time such that Mr. Garcia would not be fully paid for all time worked.

This time-shaving and/or rounding practice utilized by Defendants was not even-handed over time and would almost exclusively round and shave in Defendants' favor such that Mr. Garcia was routinely unpaid for his time worked. As a result, Defendants failed to pay Mr. Garcia all required overtime wages. Additionally, in connection with the COVID-19 pandemic and during the most recent portion of Mr. Garcia's employment with Defendants, Defendants required Mr. Garcia and their other non-exempt employees to be subjected to temperature checks and a multi-question questionnaire before they were allowed to clock in and commence work. Despite being under Defendants' direction and control and being required to undergo the temperature checks and questions for the benefit of Defendants, Defendants failed to compensate Mr. Garcia or the other employees for this compensable time. As a result, Defendants failed to pay Mr. Garcia and other Aggrieved Employees all required overtime wages.

#### Minimum Wage Violations

Defendants were required to pay Mr. Garcia and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; the Wage Order 10, § 4. Mr. Garcia and other Aggrieved Employees were not paid for all hours worked due to Defendants' timekeeping and compensation practices. As alleged above, during his employment with Defendants, Defendants would keep track of Mr. Garcia's time worked and would unlawfully shave Mr. Garcia's work time and/or round Mr. Garcia's work time such that Mr. Garcia would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendants was not even-handed over time and would almost exclusively round and shave in Defendants' favor such that Mr. Garcia was routinely unpaid for his time worked. As a result, Defendants failed to pay Mr. Garcia all required minimum wages. Additionally, in connection with the COVID-19 pandemic and during the most recent portion of Mr. Garcia's employment with Defendants, Defendants required Mr. Garcia and their other non-exempt employees to be subjected to temperature checks and a multi-question questionnaire before they were allowed to clock in and commence work. Despite being under Defendants' direction and control and being required to undergo the temperature checks and questions for the benefit of Defendants, Defendants failed to compensate Mr. Garcia or the other employees for this compensable time. As a result, Defendants failed to pay Mr. Garcia and other Aggrieved Employees all required minimum wages.

#### Meal Period Violations

As alleged above, Defendants failed to provide Mr. Garcia and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; the Wage Order 10, § 11. Specifically, as a result of the work demands imposed by Defendants, Defendants often provided meal periods that were either late or short or failed to provide a required meal period altogether. Therefore, Mr. Garcia and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday

that the meal or rest or recovery period is not provided.”). Although Mr. Garcia and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendants failed to compensate Mr. Garcia and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

#### Rest Period Violations

Defendants also failed to authorize and permit Mr. Garcia and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 10, § 12. Specifically, as a result of the work demands imposed by Defendants, Defendants did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*. As a result, Mr. Garcia and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

#### Failure to Reimburse Business Expenses

Defendants failed to reimburse Mr. Garcia and other Aggrieved Employees for necessary work expenses, including, but not limited to, expenses incurred for the reasonable portion of cellular phone expenses incurred in the direct discharge of the job duties of such employees. Defendants’ policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 10, § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”) Mr. Garcia and other Aggrieved Employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

#### Wage Statement Violations

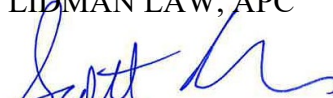
Defendants knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Garcia and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, meal and rest period premiums, and total gross and net wages earned, in violation of Labor Code § 226 *et seq.* Defendants’ failure to furnish Mr. Garcia and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendants’ reported data. Further, Defendants issued wage statements that failed to include the legal entity that employed Mr. Garcia in violation of Labor Code section 226.

As an “aggrieved employee,” Mr. Garcia will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Garcia’s own investigation, and on information and belief, Defendants committed the following Labor Code violations:

- a) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Garcia and other Aggrieved Employees the statutory minimum wage for all hours worked;
- b) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Garcia and other Aggrieved Employees all overtime compensation earned;
- c) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Garcia and other Aggrieved Employees;
- d) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Garcia and other Aggrieved Employees;
- e) Defendants violated Labor Code § 2802 by failing to reimburse Mr. Garcia and other Aggrieved Employees for necessary work expenditures;
- f) Defendants violated Labor Code § 226 by failing to furnish Mr. Garcia and other Aggrieved Employees with accurate and compliant itemized wage statements;
- g) Defendants violated Labor Code § 204 by failing to pay Mr. Garcia and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- h) Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Garcia and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,  
LIDMAN LAW, APC



Scott M. Lidman

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I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, California 90245.

**FOLGER LEVIN LLP**

Attorneys for Defendant

**[X] (BY ELECTRONIC SERVICE)** I caused a true and correct copy of the document(s) described above to be electronically served on counsel of record at the electronic service addresses listed above by electronic transmission via Case Anywhere.

Executed on July 6, 2023, at El Segundo, California.

  
Dana Joudi