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FILED
Superior Court of California
County of Los Angeles

11/22/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: K. Martinez Deputy

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

ISRAEL LUNA GARCIA, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

DELUXE SMALL BUSINESS SALES, INC., a
Minnesota corporation; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 22STCV31201

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

1. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
2. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
3. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
4. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
5. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802];
6. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
7. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226];
8. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and
9. Civil Penalties Under PAGA [Cal. Lab. Code §§ 2699, et seq.].

DEMAND FOR JURY TRIAL

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1 Plaintiff Israel Luna Garcia (“Plaintiff”), based upon facts that either have evidentiary
2 support or are likely to have evidentiary support after a reasonable opportunity for further
3 investigation and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants Deluxe Small Business Sales, Inc.,
6 and Does 1 through 10 (collectively referred to as “Defendants”) for California Labor Code
7 violations and unfair business practices stemming from Defendants’ failure to pay minimum
8 wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and
9 permit rest periods, failure to maintain accurate records of hours worked and meal periods,
10 failure to timely pay all wages to terminated employees, failure to indemnify necessary business
11 expenses, and failure to furnish accurate wage statements.

12 2. Plaintiff brings the First through Eighth Causes of Action individually and as a
13 class action on behalf of himself and certain current and former employees of Defendants
14 (hereinafter collectively referred to as the “Class” or “Class Members” and defined more fully
15 below). The Class consists of Plaintiff and all other persons who have been employed by any
16 Defendants in California as an hourly-paid, non-exempt employee during the statute of
17 limitations period applicable to the claims pleaded here.

18 3. Plaintiff brings the Ninth Cause of Action as a representative action under the
19 California Private Attorney General Act (“PAGA”) to recover civil penalties that are owed to
20 Plaintiff, the State of California, and past and present non-exempt, hourly-paid employees of
21 Defendants who worked in California during the applicable statute of limitations period
22 (hereinafter referred to as the “Aggrieved Employees”).

23 4. Defendants own/owned and operate/operated an industry, business, and
24 establishment within the State of California, including Los Angeles County. As such, and based
25 upon all the facts and circumstances incident to Defendants’ business in California, Defendants
26 are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare
27 Commission (“IWC”), and the California Business & Professions Code.

1 5. Despite these requirements, throughout the statutory period Defendants maintained
2 a systematic, company-wide policy and practice of:

- 3 (a) Failing to pay employees for all hours worked, including all minimum
4 wages, and overtime wages in compliance with the California Labor Code
5 and IWC Wage Orders;
- 6 (b) Failing to provide employees with timely and duty-free meal periods in
7 compliance with the California Labor Code and IWC Wage Orders, failing
8 to maintain accurate records of all meal periods taken or missed, and
9 failing to pay an additional hour's pay for each workday a meal period
10 violation occurred;
- 11 (c) Failing to authorize and permit employees to take timely and duty-free rest
12 periods in compliance with the California Labor Code and IWC Wage
13 Orders, and failing to pay an additional hour's pay for each workday a rest
14 period violation occurred;
- 15 (d) Failing to indemnify employees for necessary business expenses incurred;
- 16 (e) Willfully failing to pay employees all minimum wages, overtime wages,
17 meal period premium wages, and rest period premium wages due within
18 the time period specified by California law when employment terminates;
19 and
- 20 (f) Failing to maintain accurate records of the hours that employees worked.
- 21 (g) Failing to provide employees with accurate, itemized wage statements
22 containing all the information required by the California Labor Code and
23 IWC Wage Orders.

24 6. On information and belief, Defendants, and each of them were on actual and
25 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
26 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
27 willful and deliberate.
28

7. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiff, the Class, and the Aggrieved Employees. Further, Defendants are responsible for each of the unlawful acts or omissions complained of herein under the doctrine of “respondeat superior”.

THE PARTIES

A. Plaintiff

8. Plaintiff is a California resident that worked for Defendants in the County of Los Angeles, State of California, as a sales representative from approximately January 2017 to February 2022.

9. Plaintiff reserves the right to seek leave to amend this complaint to add new plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

B. Defendants

10. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Deluxe Small Business Sales, Inc. is:

- (a) A Minnesota corporation with its principal place of business in Los Angeles, California.
- (b) A business entity conducting business in numerous counties throughout the State of California, including in Los Angeles County; and
- (c) The former employer of Plaintiff, and the current and/or former employer of the putative Class. Defendants suffered and permitted Plaintiff, the Class, and the Aggrieved Employees to work, and/or controlled their wages, hours, or working conditions.

11. Plaintiff does not currently know the true names or capacities of the persons or entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each of the Doe Defendants was in some manner legally responsible for the damages suffered by Plaintiff, the Class, and the Aggrieved Employees as alleged herein. Plaintiff will

1 amend this complaint to set forth the true names and capacities of these Defendants when they
2 have been ascertained, together with appropriate charging allegations, as may be necessary.

3 12. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
4 each of them, were residents of, doing business in, availed themselves of the jurisdiction of,
5 and/or injured a significant number of the Plaintiff, the Class, and the Aggrieved Employees in
6 the State of California.

7 13. Plaintiff is informed and believes and thereon alleges that at all relevant times each
8 Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the
9 other employees described in the class definitions below, and exercised control over their wages,
10 hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all
11 relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director,
12 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
13 predecessor in interest of some or all of the other Defendants, and was engaged with some or all
14 of the other Defendants in a joint enterprise for profit, and bore such other relationships to some
15 or all of the other Defendants so as to be liable for their conduct with respect to the matters
16 alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted
17 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or
18 should have known about, and authorized, ratified, adopted, approved, controlled, aided and
19 abetted the conduct of all other Defendants.

20 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

21 14. Plaintiff is a California resident who worked for Defendants in the County of Los
22 Angeles, State of California, as a sales representative during the statutory period. During the
23 statutory time period, Plaintiff was typically scheduled to work at least 5 days in a workweek,
24 and typically in excess of 8 hours in a single workday.

25 15. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours
26 worked (including minimum wages and overtime wages), failed to provide Plaintiff with
27 uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest
28 periods, failed to indemnify Plaintiff for necessary business expenses, failed to timely pay all

1 final wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish
2 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for
3 Defendants was typical and illustrative.

4 16. Throughout the statutory period, Defendants maintained a policy and practice of
5 not paying Plaintiff, the Class, and the Aggrieved Employees for all hours worked, including all
6 overtime wages. Plaintiff, the Class, and the Aggrieved Employees received non-discretionary
7 bonuses, shift differentials, commissions, and other remuneration. However, Defendants failed
8 to incorporate all remuneration when calculating the proper overtime rate of pay and sick day
9 rate of pay, leading to underpayment. Also throughout the statutory period, Plaintiff, the Class,
10 and the Aggrieved Employees were required to work "off the clock" and uncompensated. For
11 example, Plaintiff, the Class, and the Aggrieved Employees were required to perform pre-shift
12 activities such as starting the computer, reading emails, and logging into several programs
13 (Citrix, Avaya, Comet, Sales Force, Bags and Bows, and Deluxe Time) in order to clock into
14 work, all off the clock and uncompensated. Similarly Plaintiff, the Class, and the Aggrieved
15 Employees were required to clock out of work and log out of all the above programs after
16 clocking out of work, off the clock and uncompensated. Also, Plaintiff, the Class, and the
17 Aggrieved Employees were sometimes required to use their personal cellular telephones for work
18 purposes while off the clock and after hours, uncompensated.

19 17. Throughout the statutory period, Defendants have wrongfully failed to provide
20 Plaintiff, the Class, and the Aggrieved Employees with legally compliant meal periods.
21 Defendants sometimes, but not always, required Plaintiff, the Class, and the Aggrieved
22 Employees to work in excess of five consecutive hours a day without providing 30-minute,
23 continuous and uninterrupted, duty-free meal period for every five hours of work, or without
24 compensating Plaintiff, the Class, and the Aggrieved Employees for meal periods that were not
25 provided by the end of the fifth hour of work or tenth hour of work. Defendants also did not
26 adequately inform Plaintiff, the Class, and the Aggrieved Employees of their right to take a meal
27 period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the
28 tenth hour of work. Further, Defendants failed to accurately record meal periods, specifically the

1 start and end times. Accordingly, Defendants' policy and practice was to not provide meal
2 periods to Plaintiff, the Class, and the Aggrieved Employees in compliance with California law.

3 18. Throughout the statutory period, Defendants have wrongfully failed to authorize
4 and permit Plaintiff, the Class, and the Aggrieved Employees to take timely and duty-free rest
5 periods. Defendants sometimes, but not always, required Plaintiff, the Class, and the Aggrieved
6 Employees to work in excess of four consecutive hours a day without Defendants authorizing and
7 permitting them to take a 10-minute, continuous and uninterrupted, rest period for every four
8 hours of work (or major fraction of four hours), or without compensating Plaintiff, the Class, and
9 the Aggrieved Employees for rest periods that were not authorized or permitted. Defendants also
10 did not adequately inform Plaintiff, the Class, and the Aggrieved Employees of their right to take
11 a rest period. Moreover, Defendants did not have adequate policies or practices permitting or
12 authorizing rest periods for Plaintiff, the Class, and the Aggrieved Employees, nor did
13 Defendants have adequate policies or practices regarding the timing of rest periods. Also,
14 Defendants automatically deducted meal breaks, and did not properly record meal breaks.
15 Defendants also did not have adequate policies or practices to verify whether Plaintiff, the Class,
16 and the Aggrieved Employees were taking their required rest periods. Further, Defendants did
17 not maintain accurate records of employee work periods, and therefore Defendants cannot
18 demonstrate that Plaintiff, the Class, and the Aggrieved Employees took rest periods during the
19 middle of each work period. Also, Plaintiff, the Class, and the Aggrieved Employees were unable
20 to leave the premises during rest breaks. Accordingly, Defendants' policy and practice was to not
21 authorize and permit Plaintiff, the Class, and the Aggrieved Employees to take rest periods in
22 compliance with California law.

23 19. Throughout the statutory period, Defendants wrongfully required Plaintiff, the
24 Class, and the Aggrieved Employees to pay expenses that they incurred in direct discharge of
25 their duties for Defendants without reimbursement, including requiring Plaintiff, the Class, and
26 the Aggrieved Employees to use their own personal cellular telephones for work purposes,
27 without reimbursement. Also, Plaintiff, the Class, and the Aggrieved Employees were required
28 to sometimes work from home due to COVID, but were not reimbursed for the expenses relating

1 to the home office, such as personal computer use, internet use, printer use, and office supplies,
2 among other expenses, all unreimbursed.

3 20. Throughout the statutory period, Defendants willfully failed and refused to timely
4 pay Plaintiff, the Class, and the Aggrieved Employees at the conclusion of their employment all
5 wages for all minimum wages, overtime wages, meal period premium wages, and rest period
6 premium wages. Further, Defendants did not pay Plaintiff, the Class, and the Aggrieved
7 Employees their final paychecks immediately upon termination.

8 21. Throughout the statutory period, Defendants failed to furnish Plaintiff, the Class,
9 and the Aggrieved Employees with accurate, itemized wage statements showing all applicable
10 hourly rates, and all gross and net wages earned (including correct hours worked, correct wages
11 earned for hours worked, correct overtime hours worked, correct wages for meal periods that
12 were not provided in accordance with California law, correct wages for rest periods that were not
13 authorized and permitted to take in accordance with California law, and Defendant's address).
14 Further, the wage statements do not show Defendant's address as required by California law. As
15 a result of these violations of California Labor Code § 226(a), the Plaintiff, the Class, and the
16 Aggrieved Employees suffered injury because, among other things:

- 17 (a) the violations led them to believe that they were not entitled to be paid
18 minimum wages, overtime wages, meal period premium wages, and rest
19 period premium wages to which they were entitled, even though they were
20 entitled;
- 21 (b) the violations led them to believe that they had been paid the minimum,
22 overtime, meal period premium, and rest period premium wages, even
23 though they had not been;
- 24 (c) the violations led them to believe they were not entitled to be paid
25 minimum, overtime, meal period premium, and rest period premium wages
26 at the correct California rate even though they were;
- 27
28

- 1 (d) the violations led them to believe they had been paid minimum, overtime,
2 meal period premium, and rest period premium wages at the correct
3 California rate even though they had not been;
- 4 (e) the violations hindered them from determining the amounts of minimum,
5 overtime, meal period premium, and rest period premium owed to them;
- 6 (f) in connection with their employment before and during this action, and in
7 connection with prosecuting this action, the violations caused them to have
8 to perform mathematical computations to determine the amounts of wages
9 owed to them, computations they would not have to make if the wage
10 statements contained the required accurate information;
- 11 (g) by understating the wages truly due them, the violations caused them to
12 lose entitlement and/or accrual of the full amount of Social Security,
13 disability, unemployment, and other governmental benefits;
- 14 (h) the wage statements inaccurately understated the wages, hours, and wages
15 rates to which Plaintiff, the Class, and the Aggrieved Employees were
16 entitled, and Plaintiff, the Class, and the Aggrieved Employees were paid
17 less than the wages and wage rates to which they were entitled.

18 Thus, Plaintiff, the Class, and the Aggrieved Employees are owed the amounts provided for in
19 California Labor Code § 226(e), including actual damages.

20 **CLASS ACTION ALLEGATIONS**

21 22. Plaintiff brings certain claims individually, as well as on behalf of each and all
22 other persons similarly situated, and thus, seek class certification under California Code of Civil
23 Procedure § 382.

24 23. All claims alleged herein arise under California law for which Plaintiff seeks relief
25 authorized by California law.

26 24. The proposed Class consists of and is defined as:

27 All persons who worked for any Defendant in California as an hourly, non-
28 exempt employee at any time during the period beginning four years before the

1 filing of the initial complaint in this action and ending when notice to the Class
2 is sent.

3 25. At all material times, Plaintiff was a member of the Class.

4 26. Plaintiff undertakes this concerted activity to improve the wages and working
5 conditions of all Class Members.

6 27. There is a well-defined community of interest in the litigation and the Class is
7 readily ascertainable:

8 (a) Numerosity: The members of the Class (and each subclass, if any) are so
9 numerous that joinder of all members would be unfeasible and impractical.
10 The membership of the entire Class is unknown to Plaintiff at this time,
11 however, the Class is estimated to be greater than 100 individuals and the
12 identity of such membership is readily ascertainable by inspection of
13 Defendants' records.

14 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect
15 the interests of each Class Member with whom there is a shared, well-
16 defined community of interest, and Plaintiff's claims (or defenses, if any)
17 are typical of all Class Members' claims as demonstrated herein.

18 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect
19 the interests of each Class Member with whom there is a shared, well-
20 defined community of interest and typicality of claims, as demonstrated
21 herein. Plaintiff has no conflicts with or interests antagonistic to any Class
22 Member. Plaintiff's attorneys, the proposed class counsel, are versed in
23 the rules governing class action discovery, certification, and settlement.
24 Plaintiff has incurred, and throughout the duration of this action, will
25 continue to incur costs and attorneys' fees that have been, are, and will be
26 necessarily expended for the prosecution of this action for the substantial
27 benefit of each class member.

28 (d) Superiority: A Class Action is superior to other available methods for the

1 fair and efficient adjudication of the controversy, including consideration
2 of:

- 3 1) The interests of the members of the Class in individually
4 controlling the prosecution or defense of separate actions;
- 5 2) The extent and nature of any litigation concerning the controversy
6 already commenced by or against members of the Class;
- 7 3) The desirability or undesirability of concentrating the litigation of
8 the claims in the particular forum; and
- 9 4) The difficulties likely to be encountered in the management of a
10 class action.

11 (e) Public Policy Considerations: The public policy of the State of California
12 is to resolve the California Labor Code claims of many employees through
13 a class action. Indeed, current employees are often afraid to assert their
14 rights out of fear of direct or indirect retaliation. Former employees are
15 also fearful of bringing actions because they believe their former
16 employers might damage their future endeavors through negative
17 references and/or other means. Class actions provide the class members
18 who are not named in the complaint with a type of anonymity that allows
19 for the vindication of their rights at the same time as their privacy is
20 protected.

21 28. There are common questions of law and fact as to the Class (and each subclass, if
22 any) that predominate over questions affecting only individual members, including without
23 limitation, whether, as alleged herein, Defendants have:

- 24 (a) Failed to pay Class Members for all hours worked, including minimum
25 wages, and overtime wages;
- 26 (b) Failed to provide meal periods and pay meal period premium wages to
27 Class Members;
- 28 (c) Failed to authorize and permit rest periods and pay rest period premium

wages to Class Members;

(d) Failed to promptly pay all wages due to Class Members upon their discharge or resignation;

(e) Failed to maintain accurate records of all hours Class Members worked, and all meal periods Class Members took or missed;

(f) Failed to reimburse Class Members for all necessary business expenses; and

(g) Violated California Business & Professions Code §§ 17200 *et. seq.* as a result of their illegal conduct as described above.

29. This Court should permit this action to be maintained as a class action pursuant to California Code of Civil Procedure § 382 because:

(a) The questions of law and fact common to the Class predominate over any question affecting only individual members;

(b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the Class;

(c) The members of the Class are so numerous that it is impractical to bring all members of the class before the Court;

(d) Plaintiff, and the other members of the Class, will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;

(e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendants are responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;

(f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:

1) Inconsistent or varying adjudications with respect to individual

members of the Class which would establish incompatible standards of conduct for Defendants; and/or

2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,

(g) Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

30. Plaintiff contemplates the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendants' own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff would contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(Against all Defendants for Failure to Pay Minimum Wages for All Hours Worked)

31. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 21 in this Complaint.

32. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

33. At all relevant times herein mentioned, Defendants knowingly failed to pay to Plaintiff and the Class compensation for all hours they worked. By their failure to pay compensation for each hour worked as alleged above, Defendants willfully violated the

provisions of Section 1194 of the California Labor Code, and any additional applicable Wage Orders, which require such compensation to non-exempt employees.

34. Accordingly, Plaintiff and the Class are entitled to recover minimum wages for all non-overtime hours worked for Defendants.

35. By and through the conduct described above, Plaintiff and the Class have been deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

36. By virtue of the Defendants' unlawful failure to pay additional compensation to Plaintiff and the Class for their non-overtime hours worked without pay, Plaintiff and the Class suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiff and the Class, but which exceed the jurisdictional minimum of this Court, and which will be ascertained according to proof at trial.

37. By failing to keep adequate time records required by California Labor Code § 1174(d), Defendants have made it difficult to calculate the full extent of minimum wage compensation due Plaintiff and the Class.

38. Pursuant to California Labor Code section 1194.2, Plaintiff and the Class are entitled to recover liquidated damages (double damages) for Defendants' failure to pay minimum wages.

39. California Labor Code section 204 requires employers to provide employees with all wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause of action, Plaintiff and the Class were entitled to be paid twice a month at rates required by law, including minimum wages. However, during all such times, Defendants systematically failed and refused to pay Plaintiff and the Class all such wages due, and failed to pay those wages twice a month.

40. Plaintiff and the Class are also entitled to seek recovery of all unpaid minimum wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5, 218.6, and 1194(a).

(Against all Defendants for Failure to Pay Overtime Wages)

48. Plaintiff and the Class also request recovery of overtime compensation according to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well as

1 the assessment of any statutory penalties against Defendants, in a sum as provided by the
2 California Labor Code and/or other statutes.

3 49. California Labor Code § 204 requires employers to provide employees with all
4 wages due and payable twice a month. The Wage Orders also provide that every employer shall
5 pay to each employee, on the established payday for the period involved, overtime wages for all
6 overtime hours worked in the payroll period. Defendants failed to provide Plaintiff and the Class
7 with all compensation due, in violation of California Labor Code § 204.

8 **THIRD CAUSE OF ACTION**

9 **(Against All Defendants for Failure to Provide Meal Periods)**

10 50. Plaintiff incorporates by reference and re-alleges as if fully stated herein
11 paragraphs 1 through 21 in this Complaint.

12 51. Under California law, Defendants have an affirmative obligation to relieve the
13 Plaintiff and the Class of all duty in order to take their first daily meal periods no later than the
14 start of Plaintiff and the Class' sixth hour of work in a workday, and to take their second meal
15 periods no later than the start of the eleventh hour of work in the workday. Section 512 of the
16 California Labor Code, and Section 11 of the applicable Wage Orders require that an employer
17 provide unpaid meal periods of at least 30 minutes for each five-hour period worked. It is a
18 violation of Section 226.7 of the California Labor Code for an employer to require any employee
19 to work during any meal period mandated under any Wage Order.

20 52. Despite these legal requirements, Defendants regularly failed to provide Plaintiff
21 and the Class with both meal periods as required by California law. By their failure to permit
22 and authorize Plaintiff and the Class to take all meal periods as alleged above (or due to the fact
23 that Defendants made it impossible or impracticable to take these uninterrupted meal periods),
24 Defendants willfully violated the provisions of Section 226.7 of the California Labor Code and
25 the applicable Wage Orders.

26 53. Under California law, Plaintiff and the Class are entitled to be paid one hour of
27 additional wages for each workday he or she was not provided with all required meal period(s),
28 plus interest thereon.

1 **FOURTH CAUSE OF ACTION**

2 **(Against All Defendants for Failure to Authorize and Permit Rest Periods)**

3 54. Plaintiff incorporates by reference and re-alleges as if fully stated herein
4 paragraphs 1 through 21 in this Complaint.

5 55. Defendants are required by California law to authorize and permit breaks of 10
6 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than
7 two hours). Section 512 of the California Labor Code, the applicable Wage Orders require that
8 the employer permit and authorize all employees to take paid rest periods of 10 minutes each for
9 each 4-hour period worked. Thus, for example, if an employee's work time is 6 hours and ten
10 minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so
11 required is itself a violation of California's rest break laws. It is a violation of Section 226.7 of
12 the California Labor Code for an employer to require any employee to work during any rest
13 period mandated under any Wage Order.

14 56. Despite these legal requirements, Defendants failed to authorize Plaintiff and the
15 Class to take rest breaks, regardless of whether employees worked more than 4 hours in a
16 workday. By their failure to permit and authorize Plaintiff and the Class to take rest periods as
17 alleged above (or due to the fact that Defendants made it impossible or impracticable to take
18 these uninterrupted rest periods), Defendants willfully violated the provisions of Section 226.7 of
19 the California Labor Code and the applicable Wage Orders.

20 57. Under California law, Plaintiff and the Class are entitled to be paid one hour of
21 premium wages rate for each workday he or she was not provided with all required rest break(s),
22 plus interest thereon.

23 **FIFTH CAUSE OF ACTION**

24 **(Against All Defendants for Failure to Indemnify Necessary Business Expenses)**

25 58. Plaintiff incorporates by reference and re-alleges as if fully stated herein
26 paragraphs 1 through 21 in this Complaint.

27 59. Defendants violated Labor Code section 2802 and the IWC Wage Orders, by
28 failing to pay and indemnify the Plaintiff and the Class for their necessary expenditures and

1 losses incurred in direct consequence of the discharge of their duties or of their obedience to
2 directions of Defendants.

3 60. As a result, Plaintiff and the Class were damaged at least in the amounts of the
4 expenses they paid, or which were deducted by Defendants from their wages.

5 61. Plaintiff and the class they represent are entitled to attorney's fees, expenses, and
6 costs of suit pursuant to Labor Code section 2802(c) and interest pursuant to Labor Code section
7 2802(b).

8 **SIXTH CAUSE OF ACTION**

9 **(Against all Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time** 10 **Penalties)**

11 62. Plaintiff incorporates by reference and re-alleges as if fully stated herein
12 paragraphs 1 through 21 in this Complaint.

13 63. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
14 an employer discharges an employee, the wages earned and unpaid at the time of discharge are
15 due and payable immediately, and that if an employee voluntarily leaves his or her employment,
16 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,
17 unless the employee has given seventy-two (72) hours previous notice of his or her intention to
18 quit, in which case the employee is entitled to his or her wages at the time of quitting.

19 64. Within the applicable statute of limitations, the employment of Plaintiff and many
20 other members of the Class ended, i.e. was terminated by quitting or discharge, and the
21 employment of others will be. However, during the relevant time period, Defendants failed, and
22 continue to fail to pay terminated Class Members, without abatement, all wages required to be
23 paid by California Labor Code sections 201 and 202 either at the time of discharge, or within
24 seventy-two (72) hours of their leaving Defendants' employ.

25 65. Defendants' failure to pay Plaintiff and those Class members who are no longer
26 employed by Defendants their wages earned and unpaid at the time of discharge, or within
27 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor
28 Code §§ 201 and 202.

1 66. California Labor Code § 203 provides that if an employer willfully fails to pay
2 wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
3 continue as a penalty wage from the due date, and at the same rate until paid or until an action is
4 commenced; but the wages shall not continue for more than thirty (30) days.

5 67. Plaintiff and the Class are entitled to recover from Defendants their additionally
6 accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days
7 maximum pursuant to California Labor Code § 203.

8 68. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff and the
9 Class are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs
10 incurred in this action.

11 **SEVENTH CAUSE OF ACTION**

12 **(Against all Defendants for Failure to Provide and Maintain Accurate and** 13 **Compliant Wage Records)**

14 69. Plaintiff incorporates by reference and re-alleges as if fully stated herein
15 paragraphs 1 through 21 in this Complaint.

16 70. At all material times set forth herein, California Labor Code § 226(a) provides that
17 every employer shall furnish each of his or her employees an accurate itemized wage statement
18 in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours
19 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
20 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
21 on written orders of the employee may be aggregated and shown as one item, (5) net wages
22 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
23 employee and the last four digits of his or her social security number or an employee
24 identification number other than a social security number, (8) the name and address of the legal
25 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
26 the corresponding number of hours worked at each hourly rate by the employee.

27 71. Defendants have intentionally and willfully failed to provide employees with
28 complete and accurate wage statements. The deficiencies include, among other things, the

1 failure to correctly identify the gross wages earned by Plaintiff and the Class, the failure to list
2 the true “total hours worked by the employee,” and the failure to list the true net wages earned.

3 72. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiff
4 and the Class have suffered injury and damage to their statutorily-protected rights.

5 73. Specifically, Plaintiff and the members of the Class have been injured by
6 Defendants’ intentional violation of California Labor Code § 226(a) because they were denied
7 both their legal right to receive, and their protected interest in receiving, accurate, itemized wage
8 statements under California Labor Code § 226(a).

9 74. Calculation of the true wage entitlement for Plaintiff and the Class is difficult and
10 time consuming. As a result of this unlawful burden, Plaintiff and the Class were also injured as
11 a result of having to bring this action to attempt to obtain correct wage information following
12 Defendants’ refusal to comply with many of the mandates of California’s Labor Code and related
13 laws and regulations.

14 75. Plaintiff and the Class are entitled to recover from Defendants their actual damages
15 caused by Defendants’ failure to comply with California Labor Code § 226(a).

16 76. Plaintiff and the Class are also entitled to injunctive relief, as well as an award of
17 attorney’s fees and costs to ensure compliance with this section, pursuant to California Labor
18 Code § 226(h).

19 **EIGHTH CAUSE OF ACTION**

20 **(Against all Defendants for Violation of California Business & Professions Code §§ 17200,**
21 **et seq.)**

22 77. Plaintiff incorporates by reference and re-alleges as if fully stated herein
23 paragraphs 1 through 21 in this Complaint.

24 78. Defendants, and each of them, are “persons” as defined under California Business
25 & Professions Code § 17201.

26 79. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
27 unlawful, and harmful to Plaintiff, other Class members, and to the general public. Plaintiff
28 seeks to enforce important rights affecting the public interest within the meaning of Code of Civil

1 Procedure § 1021.5.

2 80. Defendants' activities, as alleged herein, are violations of California law, and
3 constitute unlawful business acts and practices in violation of California Business & Professions
4 Code §§ 17200, *et seq.*

5 81. A violation of California Business & Professions Code §§ 17200, *et seq.* may be
6 predicated on the violation of any state or federal law. All of the acts described herein as
7 violations of, among other things, the California Labor Code, are unlawful and in violation of
8 public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous,
9 and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of
10 California Business & Professions Code §§ 17200, *et seq.*

11 **Failure to Pay Minimum Wages**

12 82. Defendants' failure to pay minimum wages, and other benefits in violation of the
13 California Labor Code constitutes unlawful and/or unfair activity prohibited by California
14 Business & Professions Code §§ 17200, *et seq.*

15 **Failure to Pay Overtime Wages**

16 83. Defendants' failure to pay overtime compensation and other benefits in violation of
17 California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity
18 prohibited by California Business & Professions Code §§ 17200, *et seq.*

19 **Failure to Maintain Accurate Records of All Hours Worked**

20 84. Defendants' failure to maintain accurate records of all hours worked in accordance
21 with California Labor Code § 1174.5 and the IWC Wage Orders constitutes unlawful and/or
22 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

23 **Failure to Provide Meal Periods**

24 85. Defendants' failure to provide meal periods in accordance with California Labor
25 Code §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or
26 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

27 **Failure to Authorize and Permit Rest Periods**

28 86. Defendants' failure to authorize and permit rest periods in accordance with

1 California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful
2 and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

3 **Failure to Indemnify Necessary Business Expenses**

4 87. Defendants' failure to indemnify employees for necessary business expenses in
5 accordance with California Labor Code § 2802 and the IWC Wage Orders, as alleged above,
6 constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§
7 17200, *et seq.*

8 **Failure to Provide Accurate Itemized Wage Statements**

9 88. Defendants' failure to provide accurate itemized wage statements in accordance
10 with California Labor Code § 226, as alleged above, constitutes unlawful and/or unfair activity
11 prohibited by California Business & Professions Code §§ 17200, *et seq.*

12 89. By and through their unfair, unlawful and/or fraudulent business practices
13 described herein, the Defendants, have obtained valuable property, money and services from
14 Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly
15 situated, of valuable rights and benefits guaranteed by law, all to their detriment.

16 90. Plaintiff and the Class Members suffered monetary injury as a direct result of
17 Defendants' wrongful conduct.

18 91. Plaintiff, individually, and on behalf of members of the putative Class, is entitled
19 to, and do, seek such relief as may be necessary to disgorge money and/or property which the
20 Defendants have wrongfully acquired, or of which Plaintiff and the Class have been deprived, by
21 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and
22 the Class are not obligated to establish individual knowledge of the wrongful practices of
23 Defendants in order to recover restitution.

24 92. Plaintiff, individually, and on behalf of members of the putative class, are further
25 entitled to and do seek a declaration that the above described business practices are unfair,
26 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,
27 from engaging in any of the above-described unfair, unlawful and/or fraudulent business
28 practices in the future.

1 93. Plaintiff, individually, and on behalf of members of the putative class, have no
2 plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members
3 suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business
4 practices. As a result of the unfair, unlawful and/or fraudulent business practices described
5 above, Plaintiff, individually, and on behalf of members of the putative Class, has suffered and
6 will continue to suffer irreparable harm unless the Defendants, and each of them, are restrained
7 from continuing to engage in said unfair, unlawful and/or fraudulent business practices.

8 94. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth
9 herein above, they will continue to avoid paying the appropriate taxes, insurance and other
10 withholdings.

11 95. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff and
12 putative Class Members are entitled to restitution of the wages withheld and retained by
13 Defendants during a period that commences four years prior to the filing of this complaint; a
14 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
15 Class Members; an award of attorneys' fees pursuant to California Code of Civil Procedure §
16 1021.5 and other applicable laws; and an award of costs.

17 **NINTH CAUSE OF ACTION**

18 **(Against All Defendants for Civil Penalties Under the Private Attorneys General Act of** 19 **2004, Cal. Lab. Code §§ 2699, *et seq.*)**

20 96. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs
21 1 through 21 in this Complaint.

22 97. At all times herein mentioned, Defendants were subject to the Labor Code of the
23 State of California and the applicable Industrial Welfare Commission Orders.

24 98. California Labor Code § 2699(a) specifically provides for a private right of action
25 to recover penalties for violations of the Labor Code: "Notwithstanding any other provision of
26 law, any provision of this code that provides for a civil penalty to be assessed and collected by
27 the Labor and Workforce Development Agency or any of its departments, divisions,
28 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,

1 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
2 herself and other current or former employees pursuant to the procedures specified in Section
3 2699.3.”

4 99. Plaintiff has exhausted Plaintiff’s administrative remedies pursuant to California
5 Labor Code § 2699.3. On September 16, 2022, Plaintiff gave written notice by online filing to
6 the Labor and Workforce Development Agency and by certified mail to Defendants of the
7 specific provisions of the Labor Code that Defendants have violated against Plaintiff and certain
8 current and former aggrieved employees, including the facts and theories to support the
9 violations. Plaintiff also paid the filing fee. Plaintiff’s PAGA case number is LWDA-CM-
10 908417-22.

11 100. More than sixty-five days have elapsed since Plaintiff provided notice, but the
12 Labor and Workforce Development Agency has not indicated that it intends to investigate
13 Defendants’ Labor Code violations discussed in the notice. Accordingly, Plaintiff may
14 commence a civil action to recover penalties under Labor Code § 2699, pursuant to § 2699.3, for
15 the violations of the Labor Code described in this Complaint. These penalties include, but are not
16 limited to, penalties under California Labor Code §§ 1194, 2802, 226, and 2699(f)(2).

17 101. In addition, Plaintiff seeks penalties for Defendants’ violation of California Labor
18 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
19 employing labor who willfully fails to maintain accurate and complete records required by
20 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
21 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee
22 begins and ends each work period. Meal periods, and total hours worked daily shall also be
23 recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
24 keep total hours worked in the payroll period and applicable rates of pay.

25 102. During the time period of employment for Plaintiff and the Aggrieved Employees,
26 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to
27 maintain accurate records showing meal periods. Defendants’ failure to provide and maintain
28 records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved

1 Employees of the ability to know, understand and question the accuracy and frequency of meal
2 periods. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting
3 failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants.
4 As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer,
5 substantial losses related to the use and enjoyment of such wages, lost interest on such wages and
6 expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation
7 under state law, all to their respective damage in amounts according to proof at trial. Because of
8 Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders,
9 Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented
10 from knowing, understanding, and disputing the wage payments paid to them.

11 103. Based on the conduct described in this Complaint, Plaintiff is entitled to an award
12 of civil penalties on behalf of himself, the State of California, and similarly Aggrieved
13 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to
14 be shown according to proof at trial. These penalties are in addition to all other remedies
15 permitted by law. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs
16 pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in
17 any action shall be entitled to an award of reasonable attorney's fees and costs."

18 **PRAYER FOR RELIEF**

19 Plaintiff, individually, and on behalf of all others similarly situated only with respect to
20 the class claims, prays for relief and judgment against Defendants, jointly and severally, as
21 follows:

22 **Class Certification**

- 23 1. That this action be certified as a class action with respect to the First, Second, Third,
24 Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action;
- 25 2. That Plaintiff be appointed as the representative of the Class; and
- 26 3. That counsel for Plaintiff be appointed as Class Counsel.

27 **As to the First Cause of Action**

- 28 4. That the Court declare, adjudge and decree that Defendants violated California

1 Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
2 minimum wages due;

3 5. For general unpaid wages as may be appropriate;

4 6. For pre-judgment interest on any unpaid compensation commencing from the date
5 such amounts were due;

6 7. For liquidated damages;

7 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
8 California Labor Code § 1194(a); and,

9 9. For such other and further relief as the Court may deem equitable and appropriate.

10 As to the Second Cause of Action

11 10. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all
13 overtime wages due;

14 11. For general unpaid wages at overtime wage rates as may be appropriate;

15 12. For pre-judgment interest on any unpaid overtime compensation commencing from
16 the date such amounts were due;

17 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
18 California Labor Code § 1194(a); and,

19 14. For such other and further relief as the Court may deem equitable and appropriate.

20 As to the Third Cause of Action

21 15. That the Court declare, adjudge and decree that Defendants violated California
22 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

23 16. For unpaid meal period premium wages as may be appropriate;

24 17. For pre-judgment interest on any unpaid compensation commencing from the date
25 such amounts were due;

26 18. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
27 and for costs of suit incurred herein; and

28 19. For such other and further relief as the Court may deem equitable and appropriate.

1 As to the Fourth Cause of Action

2 20. That the Court declare, adjudge and decree that Defendants violated California
3 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

4 21. For unpaid rest period premium wages as may be appropriate;

5 22. For pre-judgment interest on any unpaid compensation commencing from the date
6 such amounts were due;

7 23. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
8 and for costs of suit incurred herein; and

9 24. For such other and further relief as the Court may deem equitable and appropriate.

10 As to the Fifth Cause of Action

11 25. That the Court declare, adjudge and decree that Defendants violated Labor Code §
12 2802 and the IWC Wage Orders;

13 26. For general unpaid wages and reimbursement of business expenses as may be
14 appropriate;

15 27. For pre-judgment interest on any unpaid compensation commencing from the date
16 such amounts were due;

17 28. For reasonable attorneys' fees and for costs of suit incurred herein; and

18 29. For such other and further relief as the Court may deem equitable and appropriate.

19 As to the Sixth Cause of Action

20 30. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
22 termination of the employment;

23 31. For statutory wage penalties pursuant to California Labor Code § 203 for former
24 employees who have left Defendants' employ;

25 32. For pre-judgment interest on any unpaid wages from the date such amounts were
26 due;

27 33. For reasonable attorneys' fees and for costs of suit incurred herein; and

28 34. For such other and further relief as the Court may deem equitable and appropriate.

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39. For such other and further relief as the Court may deem equitable and appropriate.

45. For such other and further relief as the Court may deem equitable and appropriate.

1 As to the Ninth Cause of Action

2 46. That the Court declare, adjudge and decree that Defendants violated the California
3 Labor Code by failing to pay all wages owed, including overtime, failing to provide meal
4 periods, failing to maintain accurate records of meal periods, failing to authorize and permit rest
5 breaks, failing to indemnify necessary business expenses, failing to pay final wages at
6 termination, and failing to furnish accurate itemized wage statements;

7 47. For all actual, consequential and incidental losses and damages, according to proof;

8 48. For all civil penalties pursuant to California Labor Code §§ 2699, *et seq.*, and all
9 other applicable Labor Code provisions;

10 49. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
11 California Labor Code § 2699; and,

12 50. For such other and further relief as the Court may deem equitable and appropriate.

13 As to all Causes of Action

14 51. For any additional relief that the Court deems just and proper.

15
16 Dated: November 21, 2022

Respectfully submitted,

17 MOON & YANG, APC

18
19 By: 
Kane Moon
Allen Feghali
Attorneys for Plaintiff

20
21 **DEMAND FOR JURY TRIAL**

22 Plaintiff demands a trial by jury as to all causes of action triable by jury.

23
24 Dated: November 21, 2022

MOON & YANG, APC

25
26 By: 
Kane Moon
Allen Feghali
Attorneys for Plaintiff

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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 1055 West Seventh Street, Suite 1880, Los Angeles, California 90017. On November 22, 2022, I served the foregoing document described as:

 by placing the original a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Agent of Service for Defendant

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

Executed on November 22, 2022, at Los Angeles, California.

/S/ Ximena Reyes
Signature