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17 Attorneys for Plaintiff(s),
18 JUAN FLORES-VELAZQUEZ, and all others similarly situated

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
(UNLIMITED JURISDICTION)

JUAN FLORES-VELAZQUEZ, on behalf
of himself and all others similarly situated,
and the general public, and as an
“Aggrieved Employee” on behalf of other
“Aggrieved Employees” under the Private
Attorneys General Act of 2004,

Plaintiff(s),

vs.

THE WORLD AT YOUR DOORSTEP
INC., a California corporation; PLAYA
VISTA CIRCULATION INC., a California
corporation; and DOES 2–50, inclusive,

Defendant(s).

FILED
Superior Court of California
County of Los Angeles

01/26/2023

David W. Slayton, Executive Officer / Clerk of Court

By: K. Martinez Deputy

Case No. 22STCV30196

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay All Wages Earned for All Hours Worked and Other Compensable Hours at the Correct Rates of Pay (Lab. Code §§ 226.2, 510, 1194, 1197, and 1198);
2. Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
3. Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
4. Failure to Indemnify (Lab. Code §§ 1198 and 2802);
5. Wage Statement Penalties (Lab. Code § 226);
6. Waiting Time Penalties (Lab. Code § 203);
7. Unfair Competition (Bus. & Prof. Code §§



17200, et seq.; and
8. Civil Penalties (Lab Code §§2698, et seq.)

JURY TRIAL DEMANDED

Plaintiff, Juan Flores-Velazquez (hereafter “Plaintiff” or “Flores-Velazquez”), on behalf of himself and all others similarly situated, complains and alleges as follows:

I. INTRODUCTION

1. Plaintiff brings this class and representative action for alleged violations of the California Labor Code, Industrial Welfare Commission Order No. 9-2001 (hereafter “the Wage Order”), and the California Business and Professions Code against Defendants The World At Your Doorstep Inc., a California corporation, Playa Vista Circulation Inc., a California corporation, and Does 2 through 50, inclusive (collectively “Defendants”).

2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to him and other similarly situated workers for unpaid wages, statutory penalties, interest, civil penalties, and related relief. These claims are based on Defendants’ failures to:

(A) Classify the Class Members as employees and not as independent contractors;

(B) Pay all wages, including minimum, regular, and overtime wages, earned for all hours worked at the correct rates of pay;

(C) Separately compensate for rest and recovery periods and other non-productive time;

(D) Provide all meal periods;

(E) Authorize and permit all rest breaks;

(F) Pay premium wages for unprovided meal periods;

(G) Pay premium wages for unprovided rest breaks;

(H) Indemnify for necessary work-related expenditures;

(I) Issue only accurate and complete itemized wage statements;

(J) Issue statements of the total hours of rest and recovery periods;

(K) Issue statements of sick leave available;

(L) Timely pay wages upon termination of employment



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1 Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages,
2 restitution, statutory and civil penalties, attorneys' fees, costs, and related relief through this class
3 and representative action.

4 II. THE PARTIES

5 3. Plaintiff Juan Flores-Velazquez is a resident of California.

6 4. Defendant The World at Your Doorstep Inc. is a corporation organized and
7 existing under the laws of California and also a citizen of California based on Plaintiff's
8 information and belief.

9 5. Defendant Playa Vista Circulation Inc. is a corporation organized and existing
10 under the laws of California and also a citizen of California based on Plaintiff's information and
11 belief. Upon the filing of the Complaint, the Plaintiff, being ignorant of the true name of the
12 defendants and having designated the defendant in the complaint by the fictitious name of "DOE
13 1" and having discovered the true name of that defendant to be "Playa Vista Circulation Inc." amends the complaint by substituting the true name for the fictitious name wherever it appears in the Complaint

14 6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
15 participation in the conduct alleged herein of the Defendants sued as DOES 2-50, inclusive, but
16 is informed and believes and thereon alleges that said Defendants are legally responsible for the
17 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
18 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
19 when ascertained.

20 7. Plaintiff is informed and believes and thereon alleges that, at all relevant times
21 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
22 remaining defendants, and in doing the things hereinafter alleged, were acting or failing to act
23 within the course and scope of such agency, employment, direction and control, and with the
24 approval and ratification of each of the other Defendants.

25 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
26 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
27 of a practice which resulted in Defendants not compensating Plaintiff and the other Class
28 Members or otherwise complying with their rights in accordance with applicable California labor laws as alleged herein.



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9. At all relevant times, in perpetrating the acts and omissions alleged herein, Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice, or lack thereof, which resulted in Defendants not paying Plaintiff and other members of the below-described class in accordance with applicable laws as alleged herein.

III. CLASS ALLEGATIONS

10. This action has been brought and may be maintained as a class action pursuant to California Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable class defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

11. **Class Definition:** The Class is defined as follows: All persons Defendants employed or otherwise contracted with in California as newspaper delivery persons, individuals performing work comparable to the aforementioned, compensated comparably to the aforementioned, and individuals in similar positions, at any time during the period beginning four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Class” or “Class Members”).

12. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definition with greater specificity, by further division into subclasses and/or by limitation to particular issues.

13. **Numerosity:** The Class Members are so numerous that the individual joinder of each individual Class Member is impractical. While Plaintiff does not currently know the exact number of Class Members, Plaintiff is informed and believes that the actual number exceeds the minimum required for numerosity under California laws.

14. **Commonality and Predominance:** Common questions of law and fact exist as to all Class Members and predominate over any questions which affect only individual Class Members. These questions include, but are not limited to:

A. Whether Defendants failed to pay all wages earned to Class Members for all hours worked at the correct rates of pay, including minimum, regular, overtime meal period premium, rest period premium, rest and recovery, and nonproductive time wages;

B. Whether Defendants failed to provide the Class Members with all meal periods in compliance with California law;



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1 C. Whether Defendants failed to authorize and permit the Class Members to
2 take all rest periods in compliance with California law;

3 D. Whether Defendants failed to indemnify the Class Members for the
4 reasonable expenses they incurred during the course of performing their duties;

5 E. Whether Defendants knowingly and intentionally failed to issue to the
6 class accurate and complete itemized wage statements;

7 F. Whether Defendants willfully failed to provide the class with timely final
8 wages;

9 G. Whether Defendants engaged in unfair competition within the meaning of
10 Business and Professions Code sections 17200, *et seq.*, with respect to the Class; and

11 H. Whether Class Members are entitled to restitution of money or property
12 that Defendants may have acquired from them through alleged Labor Code violations.

13 15. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims.
14 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
15 practice, or lack thereof, which resulted in Defendants failing to comply with the California Labor
16 Code, the Wage Order, and the Business and Professions Code.

17 16. **Adequacy of Class Representative:** Plaintiff is an adequate class representative
18 in that he has no interests that are adverse to, or otherwise in conflict with, the interests of absent
19 Class Members. Plaintiff is dedicated to vigorously prosecuting this action on behalf of Class
20 Members. Plaintiff will fairly and adequately represent and protect the interests of Class
21 Members.

22 17. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
23 they have no known conflicts of interest with Plaintiff or absent Class Members, are experienced
24 in class action litigation, and are dedicated to vigorously prosecuting this action on behalf of
25 Plaintiff and absent Class Members.

26 18. **Superiority:** A class action is vastly superior to other available means for fair and
27 efficient adjudication of Class Members' claims and would be beneficial to the parties and the
28 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
and efficiently prosecute their common claims in a single forum without the unnecessary
duplication of effort and expense that numerous individual actions would entail. In addition, the
monetary amounts due to many individual Class Members are likely to be relatively small and



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would thus make it difficult, if not impossible, for individual Class Members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting Class Members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

IV. STATEMENT OF FACTS

19. IWC Wage Order 9-2001 (“the Wage Order”) applies to “all persons employed in the transportation industry whether paid on a time, piece rate, commission, or other basis” Wage Order, § 1. The Wage Order defines “Transportation Industry” to mean “any industry, business, or establishment operated for the purpose of conveying persons or property from one place to another whether by rail, highway, air, or water, and all operations and services in connection therewith; and also includes storing or warehousing of goods or property, and the repairing, parking, rental, maintenance, or cleaning of vehicles.” Wage Order, § 2(P). At all relevant times during the applicable limitations period, the Defendants, Flores-Velazquez, and all the Class Members were covered by the Wage Order because the Defendants operated, and Flores-Velazquez, and all the Class Members worked for, one or more establishments operated as newspaper delivery services. Accordingly, Flores-Velazquez and all the other Class Members are entitled to the protections the Wage Order provides.

20. On approximately April 28, 2016, the Defendants began to employ Flores-Velazquez in Los Angeles and the surrounding areas in the position of newspaper delivery contractor. The Defendants continuously employed him in that capacity, until on or about February 26, 2022, which was his last day of work.

21. At all relevant times, the Defendants issued wages to Flores-Velazquez and all of the other Class Members on a semimonthly (24 paychecks/year) basis and paid them by the delivery. At all relevant times, the Defendants classified Flores-Velazquez and all the other Class Members as independent contractors not entitled to the protections of the Labor Code and the Wage Order.

22. At all relevant times, the Defendants willfully misclassified Flores-Velazquez and all the other Class Members as independent contractors. At all relevant times with regard to Flores-Velazquez and all of the other Class Members, the Defendants were in the same business, decided when the work was performed, decided where the work was performed, decided how the work was performed, had right to fire without cause, decided what supplies and materials to use,



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1 closely supervised the work, decided whether there would be assistant workers, gave detailed
2 instructions, trained them for the work, decided the training, paid for supplies and materials, was
3 the primary investor of money in the business, set a regular payment schedule, controlled chances
4 for profit and loss, made employees economically dependent, did not require skill for the work,
5 prepared the contract for the work, insured the work, provided health insurance, expected a
6 relationship with the workers of indefinite duration, assigned customers, collected payment from
7 customers, decided the advertising for the work, decided the pay rate for the work, and only
8 assigned work within usual business's scope. At all relevant times, Flores-Velazquez and all the
9 other Class Members were employees of the Defendants. The Defendants engaged, suffered, and
10 permitted them to work. The Defendants knew or should have known their actions of
11 misclassifying Flores-Velazquez and all the other Class Members as independent contractors
12 violated California law.

12 23. At all relevant times, the Defendants failed to compensate Flores-Velazquez and
13 all the other Class Members for all hours worked at the applicable minimum or regular rates of
14 pay. The Defendants required Flores-Velazquez and the Class Members to make deliveries each
15 day that required at least six hours to complete, yet the Defendants would pay them as little as
16 \$35.20 for a day's work. This averaged out to less than the applicable minimum wage per hour.

16 24. At all relevant times, the Defendants failed to compensate Flores-Velazquez and
17 all the other Class Members at the correct rates of pay for all hours worked over eight in a day,
18 over 40 in a week, and for the first eight hours of the seventh day of the workweek. The
19 Defendants required Flores-Velazquez and the Class Members to work each day of the week and
20 42 or more hours per week on average. However, the Defendants did not pay Flores-Velazquez
21 and the Class Members an overtime premium rate for such hours in excess of 40 in a week.

22 25. At all relevant times, the Defendants failed to provide Flores-Velazquez and all
23 the other Class Members with all timely 30-minute, off-duty meal periods. The Defendants
24 required Flores-Velazquez and the Class Members to complete their assigned deliveries within
25 strict time frames. These schedules prevented Flores-Velazquez and the Class Members from
26 taking timely duty free 30-minute meal periods. The Defendants also failed to pay premium wages
27 for days on which they failed to provide Flores-Velazquez and all the other Class Members with
28 meal periods as required by law.

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1 26. At all relevant times, the Defendants failed to authorize and permit Flores-
2 Velazquez and all the other Class Members to take ten-minute, off-duty, paid rest breaks every
3 four hours worked or major portion thereof. The Defendants required Flores-Velazquez and the
4 Class Members to complete their assigned deliveries within strict time frames. These schedules
5 prevented Flores-Velazquez and the Class Members from taking timely duty-free rest periods.
6 The Defendants also failed to pay premium wages for days on which they failed to authorize and
7 permit Flores-Velazquez and all the other Class Members to take rest breaks as required by law.

8 27. At all relevant times, the Defendants failed to separately compensate Flores-
9 Velazquez and all the other Class Members for rest and recovery periods and other nonproductive
10 time, including but not limited to cleaning work area, and related duties. In addition to the
11 newspaper deliveries, The Defendants required Flores-Velazquez and the Class Members to
12 perform various tasks beforehand and afterward. This included placing rubber bands on the
13 newspapers, placing the newspapers in plastic bags, and cleaning the workstation the Defendants
14 assigned to them. The Defendants did not pay Flores-Velazquez and the Class Members for this
15 work.

16 28. At all relevant times, the Defendants failed to provide paid sick leave to Flores-
17 Velazquez and all the other Class Members.

18 29. At all relevant times, the Defendants required Flores-Velazquez and all the other
19 Class Members to incur certain business expenses in the course of performing their duties. The
20 Defendants required Flores-Velazquez and all the other Class Members to supply mobile phones
21 and transportation to and from deliveries to perform their job duties. However, the Defendants
22 did not provide these items and did not reimburse Flores-Velazquez and the other Class Members
23 for these items. The Defendants required Flores-Velazquez and the Class Members to use their
24 own mobile phones to locate the addresses the Defendants required them to deliver newspapers
25 to. Also, the Defendants required Flores-Velazquez and the Class Members to use their own
26 automotive vehicles to make the deliveries. The Defendants did not reimburse for cell phone use
27 or mileage.

28 30. At all relevant times, the Defendants unlawfully issued acknowledgments of
indebtedness to Flores-Velazquez and all the other Class Members that were not payable in cash
without discount at some established business within the state, and that failed to display the name
and address of the business.



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1 31. At all relevant times, the Defendants failed to issue to Flores-Velazquez and all
2 the other Class Members complete and accurate wage statements that state all hours worked at
3 the correct rates of pay, and all wages earned. The Defendants knowingly and intentionally failed
4 to state on the wage statements they issued to Flores-Velazquez and all the other Class Members
5 the unpaid wages discussed above. The wage statements fail to state all minimum wages earned,
6 all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period
7 premium wages earned, all rest break premium wages earned, the employer's name and address,
8 all earned sick pay, all nonproductive time, all nonproductive time wages earned, all rest and
9 recovery time, all rest and recovery time wages earned, start date of pay period, end date of pay
10 period, gross wages earned, net wages earned, all deductions, name of employer, address of
11 employer, all hourly rates, all hours work at each rate of pay, and related information.

12 32. At all relevant times, the Defendants failed to provide Flores-Velazquez and all
13 the other Class Members with statements of the total hours of compensable rest and recovery
14 periods, the rate of compensation, and the gross and net wages paid for those activities during the
15 pay period. The Defendants did not pay Flores-Velazquez and the Class Members for rest and
16 recovery time.

17 33. At all relevant times, the Defendants failed to provide Flores-Velazquez and all
18 the other Class Members with statements of sick leave available, or paid time off in lieu of sick
19 leave.

20 34. At all relevant times, the Defendants failed to provide signed and complete
21 commission agreements to Flores-Velazquez and all the other Class Members.

22 35. At all relevant times, the Defendants also failed to timely pay Flores-Velazquez
23 and all the other Class Members all earned wages as described above during and at the conclusion
24 of employment.

25 36. At all relevant times, the Defendants failed to maintain accurate employee records
26 of Flores-Velazquez and all the other Class Members.

27 37. For the reasons stated herein, Plaintiff alleges that as a result of the Defendants'
28 unlawful practices and policies, Plaintiff and the Class Members were:

- A. Not provided with all off-duty meal periods;
- B. Not authorized and permitted to take all rest break periods;

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1 C. Not paid one hour's pay for each workday in which Defendants failed to
2 authorize and permit them to take one or more timely rest periods;

3 D. Not paid one hour's pay for each workday in which Defendants failed to
4 provide them with one or more timely meal periods;

5 E. Not paid all wages earned, including, but not limited to, minimum, regular,
6 and overtime wages for work performed;

7 F. Not indemnified for all necessary business expenditures incurred during
8 the discharge of their duties;

9 G. Not provided with accurate and complete wage statements; and

10 H. Not timely paid all earned and unpaid wages at the time their employment
ended.

11 **FIRST CAUSE OF ACTION**

12 **FAILURE TO PAY, DEDUCTING, OR WITHHOLDING ALL WAGES AT THE**
13 **CORRECT RATES**

14 **Lab. Code §§ 226.2, 510, 1194, 1197, and 1198**

15 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

16 38. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

17 39. At all relevant times, Plaintiff and the Class Members have been non-exempt
employees entitled to the protections of both the Labor Code and the Wage Order.

18 **A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT**
19 **THE CORRECT RATES OF PAY**

20 40. Section 2 of the Wage Order defines "hours worked" as "the time during which an
21 employee is subject to the control of an employer, and includes all the time the employee is
22 suffered or permitted to work, whether or not required to do so."

23 41. Section 3 of the Wage Order states:

24 The following overtime provisions are applicable to employees 18 years of age or
25 over and to employees 16 or 17 years of age who are not required by law to attend
26 school and are not otherwise prohibited by law from engaging in the subject work.
27 Such employees shall not be employed more than eight (8) hours in any workday
28 or more than 40 in a workweek unless the employee receives one and one half
(1½) times such employee's regular rate of pay for all hours worked over 40 hours
in the workweek. Eight (8) hours of labor constitutes a day's work. Employment
beyond eight (8) hours in any workday or more than six (6) days in any workweek



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is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;
- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek. The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

42. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consists of all hours that an employer has actual or constructive knowledge that employees are working.

43. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. 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. 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 at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

44. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

45. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

46. Labor Code section 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

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1 47. In conjunction, these provisions of the Labor Code require employers to pay non-
2 exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours
3 worked, including unrecorded hours when the employer knew or reasonably should have known
4 that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22
Cal.4th 575, 585.)

5 48. At all relevant times during the applicable limitations period, Defendants failed to
6 compensate Plaintiff and the Class Members for all hours worked, including, but not limited to
7 minimum, regular, overtime and doubletime wages for all minimum, regular, overtime and
8 doubletime hours, respectively, that they worked at the correct rates of pay.

9 49. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
10 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
11 failure to compensate Plaintiff and the other Class Members for all hours worked at the correct
12 rates of pay as required by California law.

13 **B. FAILURE TO PAY FOR REST AND RECOVERY PERIODS AND OTHER**
14 **NONPRODUCTIVE TIME**

15 50. In relevant part, Labor Code section 226.2 states:

16 (a) For employees compensated on a piece-rate basis during a pay
17 period, the following shall apply for that pay period:

18 (1) Employees shall be compensated for rest and recovery
19 periods and other nonproductive time separate from any
20 piece-rate compensation.

21 ...

22 (3) (A) Employees shall be compensated for rest and
23 recovery periods at a regular hourly rate that is no less than
24 the higher of:

25 (i) An average hourly rate determined by
26 dividing the total compensation for the
27 workweek, exclusive of compensation for
28 rest and recovery periods and any premium
compensation for overtime, by the total
hours worked during the workweek,
exclusive of rest and recovery periods.



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(ii) The applicable minimum wage.

51. At all relevant times during the applicable limitations period, the Defendants failed to separately compensate Flores-Velazquez and all of the other Class Members for rest and recovery periods and other nonproductive time, including but not limited to cleaning work areas, and related duties. In addition to the newspaper deliveries, the Defendants required Flores-Velazquez and the Class Members to perform various tasks beforehand and afterward. This included placing rubber bands on the newspapers, placing the newspapers in plastic bags, and clean the workstation The Defendants assigned to them. The Defendants did not pay Flores-Velazquez and the Class Members for this work.

52. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to pay Plaintiff and the other Class Members for rest and recovery periods and other nonproductive time as required by California law.

C. FAILURE TO PROVIDE SICK LEAVE

53. Labor Code section 233 states:

Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5.

54. Labor Code section 246(a)(1) states:

An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

55. Labor Code section 246.5 states:

(a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

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(c) (1) An employer shall not deny an employee the right to use accrued sick days ...

56. The Defendants failed to provide Flores-Velazquez and all the other Class Members with paid sick leave.

57. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to pay Plaintiff and the other Class Members sick leave as required by California law.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS
Lab. Code §§ 226.7 and 512

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

58. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

59. At all relevant times during the applicable limitations period, Plaintiff and the Class Members have been employees of Defendants and entitled to the benefits and protections of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

60. In relevant part, California Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

61. In relevant part, In relevant part, California Labor Code § 512 states:

An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.

An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal



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period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

62. In relevant part, Section 11 of the Wage Order states:

Meal Periods:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.
- (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.
- (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
- (D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.
- (E) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

63. In relevant part, California Labor Code § 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the



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Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

- (c) If an employer fails to provide an employee a meal period or rest period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

64. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the Class Members were entitled to uninterrupted meal periods of at least 30 minutes for each day they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled to a second 30-minute meal period when they worked more than 10 hours in a workday.

65. Defendants intentionally failed to provide Plaintiff and the Class Members with all required 30-minute duty free meal periods in accordance with the Wage Order. The Defendants required Flores-Velazquez and the Class Members to complete their assigned deliveries within strict time frames. These schedules prevented Flores-Velazquez and the Class Members from taking timely duty free 30-minute meal periods.

66. At all relevant times, Defendants failed to provide Plaintiff and the Class Members with all timely rest and meal periods. Defendants denied Plaintiff and the other Class Members their 30-minute off-duty meal period within the first five hours of work. Furthermore, Defendants failed to pay premium wages for days on which they failed to provide Plaintiff and the other Class Members with timely meal periods.

67. Plaintiff is informed and believes and thereon alleges that, at all relevant times within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which resulted in Defendants not providing the and the Class Members with all off-duty meal periods required by California law.

68. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have suffered damages in amounts subject to proof to the extent they were not paid additional wages



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1 owed for all meal periods not provided to them.

2 69. By reason of the above, Plaintiff and the Class Members are entitled to premium
3 wages for workdays in which one or more meal periods were not provided to them pursuant to
4 California Labor Code § 226.7.

5 **THIRD CAUSE OF ACTION**

6 **FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

7 **Lab. Code § 226.7**

8 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

9 70. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

10 71. At all relevant times during the applicable limitations period, Plaintiff and the
11 Class Members have been employees of Defendants and entitled to the benefits and protections
12 of California Labor Code §§ 226.7 and 1198, and the Wage Order.

13 72. In relevant part, California Labor Code § 1198 states:

14 The maximum hours of work and the standard conditions of labor
15 fixed by the commission shall be the maximum hours of work and
16 the standard conditions of labor for employees. The employment
17 of any employee for longer hours than those fixed by the order or
18 under conditions of labor prohibited by the order is unlawful.

19 73. In relevant part, Section 12 of the Wage Order states:

20 **Rest Periods:**

21 (A) Every employer shall authorize and permit all employees to take
22 rest periods, which insofar as practicable shall be in the middle of
23 each work period. The authorized rest period time shall be based
24 on the total hours worked daily at the rate of ten (10) minutes net
25 rest time per four (4) hours or major fraction thereof. However, a
26 rest period need not be authorized for employees whose total daily
27 work time is less than three and one-half (3 ½) hours. Authorized
28 rest period time shall be counted as hours worked for which there
shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in
accordance with the applicable provisions of this order, the
employer shall pay the employee one (1) hour of pay at the
employee's regular rate of compensation for each workday
that the rest period is not provided.



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74. In relevant part, California Labor Code § 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal period or rest period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

75. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to be authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

76. Defendants intentionally failed to authorize and permit Plaintiff and the Class Members to take all 10-minute rest periods free from any work duties in accordance with the Wage Order. The Defendants required Flores-Velazquez and the Class Members to complete their assigned deliveries within strict time frames. These schedules prevented Flores-Velazquez and the Class Members from taking timely duty-free rest periods.

77. At all relevant times, Defendants failed to authorize and permit Plaintiff and the Class Members to take all timely rest periods. Furthermore, Defendants failed to pay premium wages to Plaintiff and the Class Members for days on which they failed to authorize and permit Plaintiff and the other Class Members to take timely rest periods.

78. At all relevant times, Defendants failed to authorize and permit Plaintiff and the Class Members to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. Defendants did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. Moreover,

1 Defendants failed to pay Plaintiff and the Class Members premium wages on workdays they failed
2 to authorize and permit them to take 10-minute rest periods every four hours worked or major
3 fraction thereof.

4 79. Plaintiff is informed and believes and thereon alleges that, at all relevant times
5 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
6 which resulted in Defendants not authorizing and permitting Plaintiff and the Class Members to
7 take all rest breaks required by California law.

8 80. Defendants failed to provide Plaintiff with all required rest breaks in accordance
9 with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at relevant times
10 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
11 which resulted in Defendants not providing the Class Members with all rest breaks required by
12 California law.

13 81. Defendants failed to pay Plaintiff the additional wages required by California
14 Labor Code § 226.7 for all rest breaks not provided to him. Plaintiff is informed and believes and
15 thereon alleges that, at relevant times within the applicable limitations period, Defendants have
16 maintained a policy, practice, or a lack of a policy which resulted in Defendants not providing the
17 Class Members with additional wages for all rest breaks not provided to them as required by
18 California Labor Code § 226.7.

19 82. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
20 suffered damages in amounts subject to proof to the extent they were not paid additional wages
21 owed for all rest breaks not provided to them.

22 83. By reason of the above, Plaintiff and the Class Members are entitled to premium
23 wages for workdays in which one or more rest breaks were not provided to them pursuant to
24 California Labor Code § 226.7.

FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

Lab. Code § 2802

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

28 84. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

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1 85. In pertinent part, California Labor Code § 2802(a) states: “An employer shall
2 indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct
3 consequence of the discharge of his or her duties.” Additionally, the Wage Order states,

4 (A) When uniforms are required by the employer to be worn by the
5 employee as a condition of employment, such uniforms shall be provided
6 and maintained by the employer.

7 ...

8 (B) When tools or equipment are required by the employer or are necessary to
9 the performance of a job, such tools and equipment shall be provided and
10 maintained by the employer, except that an employee whose wages are at
11 least two (2) times the minimum wage provided herein may be required to
12 provide and maintain hand tools and equipment customarily required by
13 the trade or craft.

14 Wage Order, § 9(A) and (B).

15 86. California Labor Code § 1198 prohibits employers from employing their
16 employees under conditions prohibited by the Wage Order.

17 87. At all relevant times, Defendants required Plaintiff and the Class Members to incur
18 certain business expenses in the course of performing their duties.

19 88. As described above, the Defendants required Flores-Velazquez and all of the other
20 Class Members to incur certain business expenses in the course of performing their duties. The
21 Defendants required Flores-Velazquez and all other Class Members to supply mobile phones and
22 transportation between work sites to perform their job duties. However, the Defendants did not
23 provide these items and did not reimburse Flores-Velazquez and the other Class Members for
24 these items. The Defendants required Flores-Velazquez and the Class Members to use their own
25 mobile phones to locate the addresses the Defendants required them to deliver newspapers to.
26 Also, the Defendants required Flores-Velazquez and the Class Members to use their own
27 automotive vehicles to make the deliveries. The Defendants did not reimburse for cell phone use
28 or mileage.

 89. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants’
failure to indemnify Plaintiff and the Class Members for the reasonable expenses they incurred



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during the course of performing their duties.

A. VIOLATION OF BOND REQUIREMENTS

90. As stated above, the Wage Order states:

A reasonable deposit may be required as security for the return of the items furnished by the employer ... upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee's last check the cost of an item furnished pursuant to (A) and (B) above in the event said item is not returned.

91. Labor Code § 402 states:

No employer shall demand, exact, or accept any cash bond from any employee or applicant unless:

- (a) The employee or applicant is entrusted with property of an equivalent value, or
- (b) The employer advances regularly to the employee goods, wares, or merchandise to be delivered or sold by the employee, and for which the employer is reimbursed by the employee at regular periodic intervals, and the employer limits the cash bond to an amount sufficient to cover the value of the goods, wares, or merchandise so advanced during the period prior to the payment therefor.

92. The Defendants demanded, exacted, or accepted a cash bond from Flores-Velazquez and each of the other Class Members without entrusting them with property of equivalent value. Also, the Defendants failed to limit the cash bond to an amount sufficient to cover the value of the goods, wares, or merchandise, including employee uniform items, so advanced during the period prior to the payment thereof.

93. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to limit the cash bond they accepted for Plaintiff and the Class Members to an amount sufficient to cover the value of the goods, wares, or merchandise, including employee uniform items, so advanced during the period prior to the payment thereof as required by California law.

94. Labor Code § 403 states:

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1 If cash is received as a bond it shall be deposited in a savings account in a bank
2 authorized to do business in this State, and may be withdrawn only upon the joint
signatures of the employer and the employee or applicant.

3 Cash put up as a bond shall be accompanied by an agreement in writing made by
4 the employer and employee or applicant, setting forth the conditions under which
5 the bond is given.

6 95. The Defendants did not deposit cash they received as a bond from Flores-
7 Velazquez and all the other Class Members for work uniforms in a savings account in a bank
8 authorized to do business in this State. Furthermore, the cash the Defendants received from
9 Flores-Velazquez and all the other Class Members for work uniforms could be withdrawn from
10 the bank accounts in which the Defendants deposited it without the joint signatures of the
Defendants and the Class Member concerned.

11 96. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
12 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
13 failure to deposit the cash they accepted from Plaintiff and the Class Members in a savings
14 account in a bank authorized to do business in this State, and to ensure that the cash Defendant
15 received from Plaintiff and the Class Members could be withdrawn from bank accounts
16 Defendants deposited the cash in without joint signatures of Defendants and the Class Members
as required by California law.

17 97. Labor Code § 404 states:

18 Any money put up as a bond under Sections 401, 402 and 403: ...

19 (b) Shall be returned to the employee or applicant together with accrued
20 interest thereon, immediately upon the return of the money or property
21 entrusted to the employee or applicant and upon the fulfillment of the
22 agreement, subject only to the deduction necessary to balance accounts
23 between the employer and employee or applicant.

24 98. The Defendants did not return to Flores-Velazquez and all the other Class
25 Members the cash they deposited for uniforms with the Defendants for uniform items with
accrued interest thereon after they returned them.

26 99. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
27 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
28 failure to return to Plaintiff and the Class Members the cash Defendants deposited with accrued



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interest after Class Members returned the uniforms to them.

100. Labor Code § 405 states:

Any property put up by any employee or applicant as a bond shall not be used for any purpose other than liquidating accounts between the employer and employee or for return to the employee or applicant and shall be held in trust for this purpose and not mingled with the property of the employer. No contract between the employer and employee or applicant shall abrogate the provisions of this section. Any employer or prospective employer, or agent or officer thereof, who misappropriates any such property, mingles it with his own, or uses it for any other purpose than that herein set forth is guilty of theft and shall be punished in accordance with the provisions of the Penal Code relating to theft.

101. The Defendants used cash put up by Flores-Velazquez and all the other Class Members for uniform items for purposes other than liquidating accounts between the employer and employee. The Defendants used cash put up by Flores-Velazquez and all the other Class Members for uniform items for purposes other than for return to the employees. The Defendants did not hold such cash in trust for purposes of return to Flores-Velazquez and all of the other Class Members. The Defendants mingled such cash with their property.

102. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' using cash put up by Plaintiff and the Class Members for purposes other than liquidating accounts between them and the Class Members and did not hold such cash in trust for purposes of return to Plaintiff and the Class Members. As a matter of policy and practice, the Defendants used the cash put up for uniforms by the Plaintiff and the other Class Members for purposes other than return to the Plaintiff and the Class Members.

FIFTH CAUSE OF ACTION

FAILURE TO ISSUE ACCURATE AND COMPLETE WAGE STATEMENTS

Lab. Code §§ 226 and 226.2

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

A. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE STATEMENTS

103. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

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104. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement showing:

- A. Gross wages earned;
- B. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
- C. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
- D. All deductions, provided that all deductions made on written orders of the Employee may be aggregated and shown as one item;
- E. Net wages earned;
- F. The inclusive dates of the period for which the employee is paid;
- G. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
- H. The name and address of the legal entity that is the employer; and
- I. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

105. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if the employer fails to provide accurate and complete information as required by California Labor Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement alone one or more of the following:

- A. The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to California Labor Code § 226(a);
- B. Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period;

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1 C. The name and address of the employer and, if the employer is a farm labor
2 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
3 and address of the legal entity that secured the services of the employer during the pay period;

4 D. The name of the employee and only the last four digits of his or her social
5 security number or an employee identification number other than a social security number; and

6 E. The number of piece-rate units earned and the piece rate.

7 106. "Promptly and easily determine," as stated in California Labor Code § 226(e),
8 means a reasonable person would be able to readily ascertain the information without reference
9 to other documents or information.

10 107. Similarly, section 6(B) of the Wage Order states:

11 Every employer who has control over wages, hours, or working conditions shall
12 semimonthly or at the time of each payment of wages furnish each employee an
13 itemized statement in writing showing:

- 14 (1) all deductions;
- 15 (2) the inclusive dates of the period for which the employee is paid;
- 16 (3) the name of the employee or the employee's social security number; and
- 17 (4) the name of the employer, provided all deductions made on written orders
18 of the employee may be aggregated and shown as one item. (See Labor
19 Code Section 226.)

20 This information shall be furnished either separately or as a detachable part of the check, draft,
21 or voucher paying the employee's wages.

22 108. As alleged herein, at all relevant times during the applicable limitations period,
23 Defendants violated California Labor Code section 226 because they did not properly and
24 accurately itemize each employee's gross wages earned, net wages earned, the total hours worked,
25 the corresponding number of hours worked at each rate by the employee and other requirements
26 of California Labor Code section 226. Defendants failed to state in the wage statements they
27 issued to Plaintiff and the other Class Members all their hours worked and wages earned,
28 including, but not limited to, regular and overtime wages for work they performed off-the-clock
after clocking-out (as described above). Defendants knowingly and intentionally did not issue
either as a detachable part of the check, draft, or voucher paying the employee's wages, or



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1 separately if wages are paid by personal check or cash, statements to Plaintiff and the Class
2 Members that state all minimum wages earned, all regular wages earned, all overtime wages
3 earned, all doubletime wages earned, all meal period premium wages earned, all rest break
4 premium wages earned, the employer's name and address, all earned sick pay, all nonproductive
5 time, all nonproductive time wages earned, all rest and recovery time, all rest and recovery time
6 wages earned, start date of pay period, end date of pay period, gross wages earned, net wages
7 earned, all deductions, name of employer, address of employer, all hourly rates, all hours work at
each rate of pay, and other required information.

8 109. Defendants' failure to provide Plaintiff and the other Class Members with accurate
9 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
10 the other Class Members with accurate wage statements but intentionally provided wage
11 statements that Defendants knew were not accurate.

12 110. As a result of being provided with inaccurate wage statements by Defendants,
13 Plaintiff and the other Class Members have suffered injury. Their legal rights to receive accurate
14 wage statements were violated and they were misled about the amount of wages they had actually
15 earned and were owed. In addition, the absence of accurate information on their wage statements
16 prevented immediate challenges to Defendants' unlawful pay practices, has required discovery
17 and mathematical computations to determine the amounts of wages owed, has caused difficulty
18 and expense in attempting to reconstruct time and pay records and/or has led to the submission of
19 inaccurate information about wages to state and federal government agencies. Further, Plaintiff
20 and the other Class Members were not able to ascertain from the wage statements whether
Defendants complied with their obligations under California Labor Code section 226(a).

21 **B. FAILURE TO PROVIDE NOTICE OF AVAILABLE SICK LEAVE**

22 111. Labor Code § 246 states:

23 An employer shall provide an employee with written notice that sets forth the
24 amount of paid sick leave available, or paid time off leave an employer provides
in lieu of sick leave, for use on either the employee's itemized wage statement
described in Section 226 or in a separate writing provided on the designated pay
date with the employee's payment of wages.

25 Lab. Code § 246(h) (effective July 1, 2015). As a matter of policy and practice, the Defendants
26 failed to provide Flores-Velazquez and all the other Class Members with an itemized wage
27
28



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statement or separate writing that set forth the amount of paid sick leave available.

112. Pursuant to California Labor Code § 226(e), Plaintiffs and the other Class Members are entitled to recover the greater of actual damages or penalties of fifty dollars (\$50) for the initial pay period in which a violation of California Labor Code § 226(a) occurred and one hundred dollars for each violation of California Labor Code § 226(a) in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000) per Class Member, and are also entitled to an award of costs and reasonable attorneys' fees.

C. FAILURE TO PROVIDE WAGE STATEMENTS WITH REST AND RECOVERY TIME

113. Labor Code section 226.2 states:

(a) For employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period:

...

(2) The itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable:

(A) The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period.

114. As a matter of policy and practice, the Defendants failed to provide Flores-Velazquez and all the other Class Members with statements of the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those activities during the pay period.

SIXTH CAUSE OF ACTION

WILLFUL FAILURE TO TIMELY PAY FINAL WAGES

Lab. Code §§ 201, 202, and 203

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

115. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

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116. At all relevant times during the applicable limitations period, Plaintiffs and the Class have been non-exempt employees of Defendants and are entitled to the benefits and protections of California Labor Code §§ 201, 202, and 203, and the Wage Order.

117. Labor Code § 201 provides that all earned and unpaid wages of an employee who is discharged are due and payable immediately at the time of discharge.

118. Labor Code § 202 provides that all earned and unpaid wages of an employee who quits after providing at least 72-hours' notice before quitting are due and payable at the time of quitting and that all earned and unpaid wages of an employee who quits without providing at least 72-hours' notice before quitting are due and payable within 72 hours.

119. The Defendants failed to pay Flores-Velazquez and all of the other Class Members whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment with Defendants, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages, nonproductive time, rest and recovery time, and related compensation.

120. By failing to pay such earned wages to Plaintiff and the Class Members, Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code § 201 or § 202.

121. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff and the Class Members all their earned and unpaid wages (described above) have been willful in that, at all relevant times, Defendants have deliberately maintained policies and practices that violate the requirements of the Labor Code and the Wage Order, even though at all relevant times, they have had the ability to comply with those legal requirements.

122. Pursuant to Labor Code § 203, Plaintiffs seeks waiting time penalties on behalf of themselves and the Class, in amounts subject to proof not to exceed 30 days of waiting time penalties for each Class Member.

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

Bus. & Prof. Code §§ 17200, et seq.

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

123. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

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1 124. At all relevant times during the applicable limitations period, Plaintiff and the
2 Class Members have been employees of Defendants and entitled to the benefits and protections
3 of the Business and Professions Code §§ 17200, *et seq.*

4 125. The unlawful conduct of Defendants alleged herein amounts to and constitutes
5 unfair competition within the meaning of California Business & Professions Code §§ 17200, *et*
6 *seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have unfairly
7 gained a competitive advantage over other comparable companies doing business in California
8 that comply with their legal obligations to compensate employees for all earned wages.

9 126. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
10 Class Members have suffered injuries in fact and lost money or property. Plaintiff and the Class
11 Members were deprived of wages and indemnification for work related expenses, and comparable
12 money and property.

13 127. Pursuant to California Business & Professions Code § 17203, Plaintiff and the
14 Class Members are entitled to restitution of all monies rightfully belonging to them that
15 Defendants did not pay them or otherwise retained by means of their unlawful and unfair business
16 practices.

17 128. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in
18 connection with their unfair competition claims pursuant to California Code of Civil Procedure §
19 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

20 **EIGHTH CAUSE OF ACTION**

21 **CIVIL PENALTIES**

22 **Lab. Code §§ 2698**

23 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

24 129. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

25 130. The "Aggrieved Employees" are all members of the Class defined above who
26 Defendants employed during the period beginning September 15, 2021 and ending on the date
27 that final judgment is entered in this action.

28 131. During the applicable period, Defendants violated California Labor Code §§ 201,
202, 203, 204, 226, 226.2, 226.7, 226.8, 510, 512, 1174, 1194, 1197, 1198, 2802, and related
Labor Code provisions.



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132. The unlawful conduct of Defendants alleged herein amounts to and constitutes a willful misclassification within the meaning of Labor Code section 226.8.

133. Labor Code section 226.8 states:

(a) It is unlawful for any person or employer to engage in any of the following activities:

(1) Willful misclassification of an individual as an independent contractor.

(2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.

134. "Willful misclassification means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor." (*Id.*, § (i)(4).)

135. At all relevant times, Flores-Velazquez and all the other Aggrieved Employees were employees of the Defendants. At all relevant times with regard to Flores-Velazquez and all other Aggrieved Employees, the Defendants were in the same business, decided when the work was performed, decided where the work was performed, decided how the work was performed, had right to fire without cause, decided what supplies and materials to use, closely supervised the work, decided whether there would be assistant workers, gave detailed instructions, trained them for the work, decided the training, paid for supplies and materials, was the primary investor of money in the business, set a regular payment schedule, controlled chances for profit and loss, made employees economically dependent, did not require skill for the work, prepared the contract for the work, insured the work, provided health insurance, expected a relationship with the workers of indefinite duration, assigned customers, collected payment from customers, decided the advertising for the work, decided the pay rate for the work, and only assigned work within usual business's scope. The Defendants engaged, suffered, and permitted them to work. The Defendants could terminate Flores-Velazquez and all other Aggrieved Employees at will. The



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1 Defendants trained Flores-Velazquez and all other Aggrieved Employees how to perform some
2 or all aspects of their work. The Defendants assigned Flores-Velazquez and all other Aggrieved
3 Employees the customers they delivered to. The Defendants collected payment from the
4 customers. The Defendants paid Flores-Velazquez and all other Aggrieved Employees a
5 nonnegotiable rate of pay per delivery. The work Flores-Velazquez and all other Aggrieved
6 Employees performed was wholly within the scope of the Defendants' usual course of business.
7 The Defendants knew or should have known their actions of misclassifying Flores-Velazquez and
all other Aggrieved Employees as independent contractors violated California law.

8 136. The Defendants misclassified Flores-Velazquez and all other Aggrieved
9 Employees as independent contractors and engaged in a pattern and/or practice of so doing.
10 Through this misclassification of Flores-Velazquez and every other Aggrieved Employee, the
11 Defendants have engaged in a pattern and practice of willful misclassification of their employees
12 as independent contractors for their own financial benefit. Each person or entity referenced above
13 collectively as the Defendants advised the others to treat Flores-Velazquez and all other
Aggrieved Employees at issue in this case as independent contractors.

14 137. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
15 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
16 misclassification of Plaintiff and the other Aggrieved Employees as independent contractors as
17 required by California law.

18 138. Labor Code § 204 states:

19 (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or
20 204.2, earned by any person in any employment are due and payable twice during each
21 calendar month, on days designated in advance by the employer as the regular paydays.
22 Labor performed between the 1st and 15th days, inclusive, of any calendar month shall
23 be paid for between the 16th and the 26th day of the month during which the labor was
performed, and labor performed between the 16th and the last day, inclusive, of any
calendar month, shall be paid for between the 1st and 10th day of the following month.

24 ...

(b) (1) Notwithstanding any other provision of this section, all wages earned for
25 labor in excess of the normal work period shall be paid no later than the payday for the
next regular payroll period.

(2) An employer is in compliance with the requirements of subdivision (a) of Section
26 226 relating to total hours worked by the employee, if hours worked in excess of the
27 normal work period during the current pay period are itemized as corrections on the
paystub for the next regular pay period. Any corrections set out in a subsequently issued
28 paystub shall state the inclusive dates of the pay period for which the employer is



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correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

(d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

139. Defendants paid wages to employees on regular intervals. Defendants, however, failed to pay Plaintiff on such intervals for all wages earned and all hours worked. On information and belief, Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such intervals for all wages earned and all hours worked.

140. During the applicable time period, Defendants violated California Labor Code §§ 201, 202, 203, 204, 226, 226.2, 226.7, 226.8, 510, 512, 1174, 1194, 1197, 1198, 2802

141. California Labor Code §§ 2699(a) and (g) authorize an Aggrieved Employee, on behalf of themselves and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

142. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved Employees are entitled to recover civil penalties for each of the Defendants' violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.2, 226.7, 226.8, 510, 512, 1174, 1194, 1197, 1198, 2802, and related Labor Code statutes during the applicable limitations period in the following amounts:

A. For violations of California Labor Code § 204, one hundred dollars (\$100.00) per Aggrieved Employee for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each Aggrieved Employee (penalties set by Labor Code § 210).

B. For violations of California Labor Code § 226, two hundred fifty dollars (\$250.00) per Aggrieved Employee for initial violation and one thousand dollars (\$1,000.00) per employee for each subsequent violation (penalty amounts established by California Labor Code § 226.3).

C. For violations of California Labor Code §§ 510 and 512, fifty dollars (\$50.00) for each Aggrieved Employee for each initial violation for pay period for which the employee was underpaid and one hundred dollars (\$100.00) for each underpaid employee for



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each pay period for which the employee was underpaid (penalty amounts established by California Labor Code § 558).

D. For violations of California Labor Code § 1174, five hundred dollars (\$500.00) for each Aggrieved Employee for each initial violation (penalty amounts established by Labor Code § 1174.5).

E. For violations of California Labor Code § 1197, one hundred dollars (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period (regardless of whether the initial violations were intentionally committed) (penalty amounts established by California Labor Code § 1197.1).

F. For violations of California Labor Code §§ 201, 202, 203, 226.2, 226.7, 1194, 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).

G. For violations of California Labor Code § 226.8, twenty-five thousand dollars (\$25,000) for each employee or, alternatively, fifteen thousand dollars (\$15,000) for each aggrieved employee in addition to any other penalties or fines permitted by law (penalty amounts set by Labor Code § 226.8(b)).

143. Plaintiff has complied with the procedures for bringing suit specified in California Labor Code § 2699.3. By letter dated September 15, 2022, Plaintiff gave written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and Defendants of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. A true and correct copy of Plaintiff’s letter to the LWDA dated September 15, 2022 is attached hereto as Exhibit A. The LWDA has not responded to Plaintiff’s letter.

144. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved Employees are entitled to an award of civil penalties, reasonable attorneys’ fees, and costs in connection with their claims for civil penalties.

///



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V. PRAYER FOR RELIEF

145. WHEREFORE, Plaintiff, on behalf of himself and the Class Members, prays for relief and judgment against Defendants as follows:

A. An order that the action be certified as a class action with respect to Plaintiff's claims for violations of California law;

B. An order that Plaintiff be appointed class representative;

C. An order that counsel for Plaintiff be appointed class counsel;

D. Unpaid wages, including minimum, regular, overtime, double-time, missed meal period, missed rest period, nonproductive time, and rest and recovery time wages;

E. Liquidated damages;

F. Statutory penalties, including waiting time penalties;

G. Civil penalties;

H. Restitution;

I. Declaratory relief;

J. Actual damages;

K. Pre-judgment interest;

L. Costs of suit;

M. Reasonable attorneys' fees; and

N. Such other relief as the Court deems just and proper.

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VI. DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself and all other Class Members, hereby demands a jury trial on all issues so triable.

Respectfully submitted,

THE SPIVAK LAW FIRM

Dated: January 26, 2023

By:



DAVID G. SPIVAK,
JENICA P. LEONARD, Attorneys for
Plaintiff(s), JUAN FLORES-
VELAZQUEZ, and all others similarly
situated



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EXHIBIT A



THE SPIVAK LAW FIRM
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SENT BY ELECTRONIC SUBMISSION, CERTIFIED MAIL, AND EMAIL

September 15, 2022

Attn: PAGA Administrator
Labor and Workforce Development Agency
Attn: PAGA Administrator
<http://dir.tflaforms.net>
Via Electronic Submission

Re: Juan Flores-Velazquez / The World At Your Doorstep

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Juan Flores-Velazquez (hereafter “Flores-Velazquez” or “Complainant”) provides notice that The World At Your Doorstep Inc., a California corporation, Marilyn Wrightsman, and related entities (collectively “the World At Your Doorstep Employers” or “the Employers”) violated his rights and those of all other individuals the World At Your Doorstep Employers have employed or otherwise contracted with in California as newspaper delivery contractors, individuals performing work comparable to the aforementioned, and individuals in similar positions (hereafter the “Aggrieved Employees”) under Labor Code sections 201, 202, 203, 204, 212, 226, 226.2, 226.7, 226.8, 510, 512, 1174, 1194, 1197, 1198, 2802, and related Labor Code provisions. On behalf of himself and all other Aggrieved Employees, Flores-Velazquez hereby provides this notice to the Labor & Workforce Development Agency and the World At Your Doorstep Employers and their agents and representatives.

At all relevant times, the World At Your Doorstep Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Flores-Velazquez and all of the other Aggrieved Employees are “employees” within the meaning of Industrial Welfare Commission Order No. 9-2001 (hereafter “the Wage Order”) section 2, subdivision (F) and “Aggrieved Employees” within the meaning of Labor Code section 2699(c).

Statement of Facts

On approximately April 28, 2016, the World At Your Doorstep Employers began to employ Flores-Velazquez in Los Angeles and the surrounding areas in the position of newspaper delivery contractor. The World At Your Doorstep Employers continuously employed him in that capacity until on or about February 26, 2022, which was the last day he worked for the company.

At all relevant times, the World At Your Doorstep Employers issued wages to Flores-Velazquez and all of the other Aggrieved Employees on a semimonthly (24 paychecks/year) basis and paid them by the newspaper delivered. At all relevant times, the World At Your Doorstep Employers classified Flores-Velazquez and all of the other Aggrieved Employees as independent contractors not entitled to the protections of the Labor Code and the Wage Order.

The World At Your Doorstep Employers willfully misclassified Flores-Velazquez and all of the other Aggrieved Employees as independent contractors. At all relevant times with regard to Flores-Velazquez and all of the other Aggrieved Employees, the World At Your Doorstep Employers were in the same business as the newspaper delivery contractors, decided when the work was performed, decided where the work was performed, decided how the work was performed, had right to fire without cause, decided what supplies and materials to use, closely supervised the work, decided whether there would be assistant workers, gave detailed instructions, trained them for the work, decided the training, paid for newspapers and packaging, were the primary investors of money in the business, set a regular payment schedule, controlled chances for profit and loss, made the workers economically dependent, did not require skill for the work, prepared the contract for the work, insured the work, provided disability insurance, expected the relationship with their newspaper delivery contractors to be of indefinite duration, assigned customers, collected payment from customers, decided the advertising for the work, decided the pay rates for the work, and only assigned work within their business's scope. At all relevant times, Flores-Velazquez and all of the other Aggrieved Employees were employees of the World At Your Doorstep Employers. The World At Your Doorstep Employers engaged, suffered, and permitted them to work. The World At Your Doorstep Employers knew or should have known their actions of misclassifying Flores-Velazquez and all of the other Aggrieved Employees as independent contractors violated California law. Marilyn Wrightsman knowingly

advised the World At Your Doorstep Employers to misclassify Flores-Velazquez and all of the other Aggrieved Employees as independent contractors.

The World At Your Doorstep Employers failed to compensate Flores-Velazquez and all of the other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of pay. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to make deliveries each day that required at least six hours to complete, yet the World At Your Doorstep Employers would pay them as little as \$35.20 for a day's work. This average out to less than the applicable minimum wage per hour.

The World At Your Doorstep Employers failed to compensate Flores-Velazquez and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to work each day of the week and 42 or more hours per week on average. However, the World At Your Doorstep Employers did not pay Flores-Velazquez and the Aggrieved Employees an overtime premium rate for such hours in excess of 40 in a week.

At all relevant times, the World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with all timely 30-minute, off-duty meal periods. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to complete their assigned deliveries within strict time frames. These schedules prevented Flores-Velazquez and the Aggrieved Employees from taking timely duty free 30-minute meal periods. The World At Your Doorstep Employers also failed to pay premium wages for days on which they failed to provide Flores-Velazquez and all of the other Aggrieved Employees with meal periods as required by law.

At all relevant times, the World At Your Doorstep Employers failed to authorize and permit Flores-Velazquez and all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to complete their assigned deliveries within strict time frames. These schedules prevented Flores-Velazquez and the Aggrieved Employees from taking timely duty free rest periods. The World At Your Doorstep Employers also failed to pay premium wages

for days on which they failed to authorize and permit Flores-Velazquez and all of the other Aggrieved Employees to take rest breaks as required by law.

The World At Your Doorstep Employers failed to separately compensate Flores-Velazquez and all of the other Aggrieved Employees for rest and recovery periods and other nonproductive time, including but not limited to cleaning work area, and related duties. In addition to the newspaper deliveries, the World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to perform various tasks beforehand and afterward. This included placing rubber bands on the newspapers, placing the newspapers in plastic bags, and clean the workstation the World At Your Doorstep Employers assigned to them. The World At Your Doorstep Employers did not pay Flores-Velazquez and the Aggrieved Employees for this work.

The World At Your Doorstep Employers failed to provide paid sick leave to Flores-Velazquez and all of the other Aggrieved Employees.

At all relevant times, the World At Your Doorstep Employers required Flores-Velazquez and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The World At Your Doorstep Employers required Flores-Velazquez and all of the other Aggrieved Employees to supply mobile phones, transportation between work sites and customers, and related items to perform their job duties. However, the World At Your Doorstep Employers did not provide these items and did not reimburse Flores-Velazquez and the other Aggrieved Employees for these items. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to use their own mobile phones to locate the addresses the World At Your Doorstep Employers required them to deliver newspapers to. Also, the World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to use their own automotive vehicles to make the deliveries. The World At Your Doorstep Employers did not reimburse for cell phone use or mileage.

The World At Your Doorstep Employers unlawfully issued acknowledgments of indebtedness to Flores-Velazquez and all of the other Aggrieved Employees that failed to display the name and address of the business.

At all relevant times, the World At Your Doorstep Employers failed to issue to Flores-Velazquez and all of the other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned.

The World At Your Doorstep Employers knowingly and intentionally failed to state on the wage statements they issued to Flores-Velazquez and all of the other Aggrieved Employees the unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, the employer's name and address, all earned sick pay, all nonproductive time, all nonproductive time wages earned, all rest and recovery time, all rest and recovery time wages earned, start date of pay period, end date of pay period, gross wages earned, net wages earned, all deductions, name of employer, address of employer, all hourly rates, all hours work at each rate of pay, and other required information.

The World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with statements of the total hours of compensable rest and recovery periods, the rate of compensation, and the gross and net wages paid for those activities during the pay period. The World At Your Doorstep Employers did not pay Flores-Velazquez and the Aggrieved Employees for rest and recovery time.

The World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick leave.

The World At Your Doorstep Employers also failed to timely pay Flores-Velazquez and all of the other Aggrieved Employees all earned wages as described above during and at the conclusion of employment.

The World At Your Doorstep Employers failed to maintain accurate employee records of Flores-Velazquez and all of the other Aggrieved Employees.

For the reasons stated herein, Flores-Velazquez alleges the following violations of the Labor Code and the Wage Order on behalf of himself and all of the other Aggrieved Employees:

- (a) The World At Your Doorstep Employers willfully misclassified Flores-Velazquez and all of the other Aggrieved Employees as independent contractors;

- (b) Marilyn Wrightsman knowingly advised the World At Your Doorstep Employers to misclassify Flores-Velazquez and all of the other Aggrieved Employees as independent contractors;
- (c) The World At Your Doorstep Employers failed to pay Flores-Velazquez and all of the other Aggrieved Employees all wages earned for all hours worked at the correct rates of pay, including minimum, regular, overtime, and doubletime wages;
- (d) The World At Your Doorstep Employers failed to separately compensate Flores-Velazquez and all of the other Aggrieved Employees for rest and recovery periods and other nonproductive time;
- (e) The World At Your Doorstep Employers failed to provide paid sick leave to Flores-Velazquez and all of the other Aggrieved Employees;
- (f) The World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees all meal periods in compliance with California law;
- (g) The World At Your Doorstep Employers failed to authorize and permit Flores-Velazquez and all of the other Aggrieved Employees to take rest breaks in compliance with California law;
- (h) The World At Your Doorstep Employers failed to compensate Flores-Velazquez and all of the other Aggrieved Employees at one hour's pay for each day in which the World At Your Doorstep Employers failed to provide them with one or more meal periods as required by law;
- (i) The World At Your Doorstep Employers failed to compensate Flores-Velazquez and all of the other Aggrieved Employees at one hour's pay for each day in which the World At Your Doorstep Employers failed to authorize and permit them to take one or more rest breaks as required by law;

- (j) The World At Your Doorstep Employers failed to indemnify Flores-Velazquez and all of the other Aggrieved Employees for all necessary business expenditures incurred during the discharge of their duties;
- (k) The World At Your Doorstep Employers unlawfully issued acknowledgments of indebtedness to Flores-Velazquez and all of the other Aggrieved Employees that did not state the name and address of the World At Your Doorstep Employer;
- (l) The World At Your Doorstep Employers knowingly and intentionally failed to provide Flores-Velazquez and all of the other Aggrieved Employees with accurate and complete wage statements;
- (m) The World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with statements of the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period;
- (n) The World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick leave;
- (o) The World At Your Doorstep Employers willfully failed to timely pay Flores-Velazquez and all of the other Aggrieved Employees all earned and unpaid wages during their employment with the World At Your Doorstep Employers and when their employment ended; and
- (p) The World At Your Doorstep Employers failed to maintain accurate employment records pertaining to Flores-Velazquez and all of the other Aggrieved Employees.

Accordingly, Flores-Velazquez now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees based on the World At Your Doorstep Employers' alleged violations of the Labor Code and the Wage Order.

The Wage Order

The Wage Order applies to “all persons employed in the transportation industry whether paid on a time, piece rate, commission, or other basis.” Wage Order, § 1. The Wage Order defines “Transportation Industry” to mean, “any industry, business, or establishment operated for the purpose of conveying persons or property from one place to another whether by rail, highway, air, or water, and all operations and services in connection therewith; and also includes storing or warehousing of goods or property, and the repairing, parking, rental, maintenance, or cleaning of vehicles.” Wage Order, § 2(P). At all relevant times during the applicable limitations period, the World At Your Doorstep Employers, Flores-Velazquez, and all of the Aggrieved Employees were covered by the Wage Order because the World At Your Doorstep Employers operated, and Flores-Velazquez, and all of the Aggrieved Employees worked for, one or more establishments operated as newspaper delivery services. Accordingly, Flores-Velazquez and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

Willful Independent Contractor Misclassification **(Lab. Code § 226.8)**

Labor Code section 226.8 states:

- (a) It is unlawful for any person or employer to engage in any of the following activities:
 - (1) Willful misclassification of an individual as an independent contractor.
 - (2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual’s employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.

- (b) If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.
- (c) If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

“Willful misclassification means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor.”
(*Id.*, § (i)(4).)

At all relevant times, Flores-Velazquez and all of the other Aggrieved Employees were employees of the World At Your Doorstep Employers. At all relevant times with regard to Flores-Velazquez and all of the other Aggrieved Employees, the World At Your Doorstep Employers were in the same business as the newspaper delivery contractors, decided when the work was performed, decided where the work was performed, decided how the work was performed, had right to fire without cause, decided what supplies and materials to use, closely supervised the work, decided whether there would be assistant workers, gave detailed instructions, trained them for the work, decided the training, paid for newspapers and packaging, were the primary investors of money in the business, set a regular payment schedule, controlled chances for profit and loss, made the workers economically dependent, did not require skill for the work, prepared the contract for the work, insured the work, provided disability insurance, expected the relationship with their newspaper delivery contractors to be of indefinite duration, assigned customers, collected payment from customers, decided the advertising for the work, decided the pay rates for the work, and only assigned work within their business’s

scope. The World At Your Doorstep Employers engaged, suffered, and permitted them to work. The World At Your Doorstep Employers could terminate Flores-Velazquez and all of the other Aggrieved Employees at will. The World At Your Doorstep Employers trained Flores-Velazquez and all of the other Aggrieved Employees how to perform some or all aspects of their work. The World At Your Doorstep Employers assigned Flores-Velazquez and all of the other Aggrieved Employees the customers they delivered to. The World At Your Doorstep Employers collected payment from the customers. The World At Your Doorstep Employers paid Flores-Velazquez and all of the other Aggrieved Employees a nonnegotiable rate of pay per delivery. The work Flores-Velazquez and all of the other Aggrieved Employees performed was wholly within the scope of the World At Your Doorstep Employers' usual course of business. The World At Your Doorstep Employers knew or should have known their actions of misclassifying Flores-Velazquez and all of the other Aggrieved Employees as independent contractors violated California law.

The World At Your Doorstep Employers misclassified Flores-Velazquez and all of the other Aggrieved Employees as independent contractors and engaged in a pattern and/or practice of so doing. Through their misclassification of Flores-Velazquez and every other Aggrieved Employees, the World At Your Doorstep Employers have engaged in a pattern and practice of willful misclassification of their employees as independent contractors for their own financial benefit. Each person or entity referenced above collectively as the World At Your Doorstep Employers advised the others to treat Flores-Velazquez and all of the other Aggrieved Employees as independent contractors. Accordingly, Flores-Velazquez seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$25,000.00 for each aggrieved employee for each violation of Labor Code section 226.8 as part of a pattern or practice in addition to any other penalties or fines permitted by law (penalties set by Labor Code section 226.8(c)); or alternatively,
2. \$15,000.00 for each aggrieved employee for each violation of Labor Code section 226.8 in addition to any other penalties or fines permitted by law (penalties set by Labor Code section 226.8(b)).

Knowingly Advising an Employer to Misclassify
(Labor Code §§ 558.1 and 2750.3)

In relevant part, Labor Code section 558.1 states:

- (a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.
- (b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Marilyn Wrightsman was an employer of Flores-Velazquez and all of the other Aggrieved Employees, and/or “owner,” “managing agent,” and/or “officer” of the World At Your Doorstep Employers. Marilyn Wrightsman directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Aggrieved Employees, and caused the violations to the Labor Code and the Wage Order described above.

At all relevant times, Flores-Velazquez and all of the other Aggrieved Employees were employees of Marilyn Wrightsman. Marilyn Wrightsman engaged, and suffered and permitted, Flores-Velazquez and all of the other Aggrieved Employees to work. Marilyn Wrightsman was clearly aware that Flores-Velazquez and all of the other Aggrieved Employees worked for the World At Your Doorstep Employers and had the power to prevent them from working. Marilyn Wrightsman also exercised control over Flores-Velazquez and all of the other Aggrieved Employees’ wages, hours, and working conditions. Further, Marilyn Wrightsman had the right to control and exercised such control over the manner in which Flores-Velazquez and all of the other Aggrieved Employees performed their work for Marilyn Wrightsman. The services they rendered were at all times an integral part of Marilyn Wrightsman’s business. The relationship

between Flores-Velazquez and all of the other Aggrieved Employees, on one hand, and Marilyn Wrightsman, on the other, was terminable at will without cause. Despite these circumstances, Marilyn Wrightsman willfully advised the World At Your Doorstep Employers to misclassify Flores-Velazquez and all of the other Aggrieved Employees as independent contractors and misclassified Flores-Velazquez and all of the other Aggrieved Employees as independent contractors. Marilyn Wrightsman has engaged in a pattern and/or practice of doing so.

Labor Code § 2753 provides for joint and several liability for a person who “knowingly advises an employer to treat an individual as an independent contractor to avoid employee status for that individual.” Marilyn Wrightsman is and was, at relevant times, an owner, director, officer, or managing agent of the World At Your Doorstep Employers and violated or caused to be violated the provisions regulating the misclassification of employees as independent contractors. Marilyn Wrightsman knowingly advised the World At Your Doorstep Employers to treat Flores-Velazquez and all of the other Aggrieved Employees as independent contractors and not employees. Therefore, Marilyn Wrightsman is individually liable for misclassification and the penalties recited below.

Failure To Pay Wages For All Hours Worked At The Correct
Rates of Pay
(Lab. Code §§ 510, 1194, 1197, and 1198)

Under Labor Code section 1197, “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

In relevant part, section 2(H) of the Wage Order states,

“Hours worked” means 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[.]

In relevant part, Labor Code section 1194 states:

- (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

In relevant part, Labor Code section 510 states:

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. 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 at the rate of no less than twice the regular rate of pay of an employee.

In relevant part, Section 3 of the Wage Order states:

The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one and one half (1½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12)

hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;

- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek. The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

In conjunction, these provisions of the Labor Code require employers to pay employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" (before punching in or after punching out on a time clock) when the employer knew or reasonably should have known that employees were working during those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to make deliveries each day that required at least six hours to complete, yet the World At Your Doorstep Employers would pay them as little as \$35.20 for a day's work. This averaged out to less than the applicable minimum wage per hour. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to work each day of the week and 42 or more hours per week on average. However, The World At Your Doorstep Employers did not pay Flores-Velazquez and the Aggrieved Employees an overtime premium rate for such hours in excess of 40 in a week.

At all relevant times during the applicable limitations period, the World At Your Doorstep Employers failed to compensate Flores-Velazquez and all of the other Aggrieved Employees for all hours worked, including, but not limited to minimum, regular, overtime, and doubletime wages for all hours they worked at the correct rates of pay. Accordingly, Flores-Velazquez now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$50 for each aggrieved employee for each initial violation of Labor Code § 510, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code § 558);
2. \$100 for each aggrieved employee for each initial violation of Labor Code § 1194, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2));
3. \$100 for each underpaid aggrieved employee for each initial violation of Labor Code § 1197, and \$250 for each underpaid aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203 (penalties set by Labor Code § 1197.1) and
4. \$100 for each aggrieved employee for each initial violation of Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2)).

Failure To Provide Sick Leave
(Labor Code §§ 233, 246, and 246.5)

Labor Code section 233 states,

Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5.

Labor Code section 246(a)(1) states,

An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

Labor Code section 246.5 states,

- (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:
 - (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.
- ...
- (c) (1) An employer shall not deny an employee the right to use accrued sick days ...

The World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with paid sick leave. Accordingly, Flores-Velazquez now seeks civil penalties for these Labor Code violations that the World At Your Doorstep Employers have committed against him and all of the other Aggrieved Employees as follows:

1. For violations of Labor Code section 233, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 233 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 233 occurred (penalties set by Labor Code section 2699(f)(2));
2. For violations of Labor Code section 246, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246 occurred (penalties set by Labor Code section 2699(f)(2)); and

3. For violations of Labor Code section 246.5, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246.5 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246.5 occurred (penalties set by Labor Code section 2699(f)(2)).

Failure to Provide Meal Periods
(Lab. Code §§ 226.7, 512, and 1198)

In relevant part, section 2(H) of the Wage Order states,

“Hours worked” means 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.

In relevant part, Labor Code section 1198 states, “The employment of any employee ... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Labor Code section 512 states:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

In relevant part, section 11 of the Wage Order states:

Meal Periods:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30

minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.

- (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.
- (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
- (D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.
- (E) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health

Standards Board, or the Division of Occupational Safety and Health.

- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, 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.

At all relevant times, the World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with all timely meal periods. The World At Your Doorstep Employers denied Flores-Velazquez and all of the other Aggrieved Employees their 30-minute off-duty meal period within the first five hours of work. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to complete their assigned deliveries within strict time frames. These schedules prevented Flores-Velazquez and the Aggrieved Employees from taking timely duty free 30-minute meal periods. Furthermore, the World At Your Doorstep Employers failed to pay premium wages for days on which they failed to provide Flores-Velazquez and all of the other Aggrieved Employees with timely meal periods. Accordingly, Flores-Velazquez now seeks civil penalties for these Labor Code violations that the World At Your Doorstep Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2));
2. \$50 for each aggrieved employee for each initial violation of Labor Code section 512, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code section 558); and

3. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Authorize and Permit Rest Periods
(Lab. Code §§ 226.7 & 1198)

Section 2(H) of the Wage Order states,

“Hours worked” means 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.

In relevant part, Labor Code section 1198 states,

The employment of any employee . . . under conditions of labor prohibited by the [Wage Order] is unlawful.

Section 12 of the Wage Order provides, in relevant part:

Rest Periods:

- (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
- (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, 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.

The World At Your Doorstep Employers failed to authorize and permit Flores-Velazquez and all of the other Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. The World At Your Doorstep Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to complete their assigned deliveries within strict time frames. These schedules prevented Flores-Velazquez and the Aggrieved Employees from taking timely duty free rest periods. Moreover, the World At Your Doorstep Employers failed to pay Flores-Velazquez and all of the other Aggrieved Employees premium wages on workdays the World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with 10-minute rest periods every four hours worked or major fraction thereof. Accordingly, Flores-Velazquez now seeks civil penalties for these Labor Code violations that the World At Your Doorstep Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Reimburse for Expenses
(Lab. Code §§ 1198 and 2802)

In pertinent part, Labor Code § 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

Additionally, the Wage Order states,

- (A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.
...
- (B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.

Wage Order, §§ 9(A) and (B).

Labor Code Section 1198 prohibits an employer from employing any person under conditions that violate the Wage Order.

As described above, the World At Your Doorstep Employers required Flores-Velazquez and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The World At Your Doorstep Employers required Flores-Velazquez and all of the other Aggrieved Employees to supply mobile phones, transportation between work sites, and related items to perform their job duties. However, the World At Your Doorstep Employers did not provide these items and did not reimburse Flores-Velazquez and the other Aggrieved Employees for these items. The World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to use their own mobile phones to locate the addresses The World At Your Doorstep Employers required them to deliver newspapers to. Also, the World At Your Doorstep Employers required Flores-Velazquez and the Aggrieved Employees to use their own automotive vehicles to make the deliveries. The World At Your Doorstep Employers did not reimburse for cell phone use or mileage. Accordingly, Flores-Velazquez seeks civil penalties for these Labor Code violations that the World At Your Doorstep Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 2802, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

**Unlawful Issuance of Acknowledgment of Indebtedness Not Negotiable
Without Discount at Established Place of Business Within The State
(Lab. Code § 212)**

In relevant part, California Labor Code § 212 states:

- (a) No person, or agent or officer thereof, shall issue in payment of wages due, or to become due, or as an advance on wages to be earned:

- (1) Any order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless it is negotiable and payable in cash, on demand, without discount, at some established place of business in the state, the name and address of which must appear on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must be at least 30 days, the maker or drawer has sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment.
- (2) Any scrip, coupon, cards, or other thing redeemable, in merchandise or purporting to be payable or redeemable otherwise than in money.
- (b) Where an instrument mentioned in subdivision (a) is protested or dishonored, the notice or memorandum of protest or dishonor is admissible as proof of presentation, nonpayment and protest and is presumptive evidence of knowledge of insufficiency of funds or credit with the drawee.
- (c) Notwithstanding paragraph (1) of subdivision (a), if the drawee is a bank, the bank's address need not appear on the instrument and, in that case, the instrument shall be negotiable and payable in cash, on demand, without discount, at any place of business of the drawee chosen by the person entitled to enforce the instrument.

The World At Your Doorstep Employers unlawfully issued acknowledgments of indebtedness to Flores-Velazquez and all of the other Aggrieved Employees that failed to display the name and address of the business.

Accordingly, Flores-Velazquez now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of California Labor Code § 212, and \$200 for each aggrieved employee for each subsequent violation, or any willful or intentional violation of California Labor Code § 212, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code § 225.5).

Failure to Provide Accurate Wage Statements
(Lab. Code § 226)

Labor Code section 226(a) requires an employer to provide an employee, either semi-monthly or at the time of each wage payment, with an accurate and itemized written wage statement that shows:

1. Gross wages earned;
2. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
3. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
4. All deductions, provided that all deductions made on written orders of the Employee may be aggregated and shown as one item;
5. Net wages earned;
6. The inclusive dates of the period for which the employee is paid;
7. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
8. The name and address of the legal entity that is the employer; and
9. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all relevant times during the applicable limitations period, the World At Your Doorstep Employers violated Labor Code section 226 because they did not properly, completely, and accurately itemize each Aggrieved Employee's gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the Aggrieved Employee and other requirements of Labor Code section 226. The World At Your Doorstep Employers failed to state in the wage statements they issued to Flores-Velazquez and all of the other Aggrieved Employees all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock after clocking-out (as described above). The World At Your Doorstep Employers knowingly and intentionally failed to state on the wage statements they issued to Flores-Velazquez and all of the other Aggrieved Employees the earned but unpaid wages described above. The wage statements do not state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, the employer's name and address, all earned sick pay, all nonproductive time, all nonproductive time wages earned, all rest and recovery time, all rest and recovery time wages earned, start date of pay period, end date of pay period, gross wages earned, net wages earned, all deductions, name of employer, address of employer, all hourly rates, all hours work at each rate of pay, and other required information. Accordingly, Flores-Velazquez seeks civil penalties for the Labor Code violations that the World At Your Doorstep Employers have committed against him and all of the other Aggrieved Employees as follows: \$250 for each aggrieved employee for each initial violation of Labor Code section 226(a), and \$1,000 for each aggrieved employee for each subsequent violation (penalties set by Labor Code section 226.3).

Failure To Provide Notice of Available Sick Leave
(Labor Code § 246)

Labor Code § 246 states,

An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.

Lab.Code § 246(h) (effective July 1, 2015). The World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with an itemized wage statement or separate writing that set forth the amount of paid sick leave available. Accordingly, Flores-Velazquez seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows: For violations of Labor Code § 246, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 246 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 246 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Provide Wage Statements with Rest and Recovery Time
(Lab. Code § 226.2)

Labor Code section 226.2 states,

- (a) For employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period:

...

- (2) The itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable:

- (A) The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period.

Labor Code section 2699.3(c) allows employers the chance to “cure” violations of provisions not listed under 2699.5 within 33 days of the postmark date of the aggrieved employee’s written notice to the LWDA. Section 226.2 is not a provision listed under 2699.5.

Labor Code section 2699(d) states,

For purposes of this part, “cure” means that the employer abates each violation alleged by any aggrieved employee, the employer is in compliance with the underlying statutes as specified in the notice required by this part, and any aggrieved employee is made whole.

Labor Code section 2699.3(c)(B)(ii) limits this right to once in a 12-month period. After the employer cures the violation, it must give written notice, along with a description of actions taken, by certified mail to the aggrieved employee or representative and the agency within the 33-day period.

The World At Your Doorstep Employers failed to provide Flores-Velazquez and all of the other Aggrieved Employees with statements of the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those activities during the pay period. Accordingly, Flores-Velazquez now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees \$100 for each aggrieved employee for each initial violation of Labor Code section 226.2, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Timely Pay Wages During Employment
(Lab. Code § 204)

Labor Code section 204 states all wages (other than those mentioned in Labor Code sections 201 and 202) earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

The World At Your Doorstep Employers failed to compensate Flores-Velazquez and all of the other Aggrieved Employees for wages earned, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages, nonproductive time, rest and recovery

time, and related compensation, at the intervals stated above. As a result, the World At Your Doorstep Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly, Flores-Velazquez now seeks civil penalties for the Labor Code violations that the World At Your Doorstep Employers have committed against him and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 204, and \$200 for each aggrieved employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code section 210).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201, 202, and 203)

Under Labor Code § 201, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

The World At Your Doorstep Employers failed to pay Flores-Velazquez and all of the other Aggrieved Employees whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment with Flores-Velazquez, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages,

nonproductive time, rest and recovery time and related compensation. By failing to pay Flores-Velazquez and all of the other Aggrieved Employees as set forth above at the end of employment, the World At Your Doorstep Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of himself and all of the other Aggrieved Employees, Flores-Velazquez seeks civil penalties from the World At Your Doorstep Employers as follows:

1. For violations of Labor Code § 201, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));
2. For violations of Labor Code § 202, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 202 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and
3. For violations of Labor Code § 203, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per aggrieved employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Maintain Accurate Employment Records
(Lab. Code §§ 1174 & 1198)

Labor Code section 1174, which also pertains to recordkeeping, states:

Every person employing labor in this state shall:

...

- (c) Keep a record showing the names and addresses of all employees employed and the ages of all minors.

- (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

Labor Code section 1174.5 states:

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

Section 7 of Wage Order states,

- (A) Every employer shall keep accurate information with respect to each employee including the following:
 - (1) Full name, home address, occupation and social security number.
 - (2) Birth date, if under 18 years, and designation as a minor.
 - (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

- (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the Employee.
- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

The World At Your Doorstep Employers failed to compensate Flores-Velazquez and all of the other Aggrieved Employees for all hours worked at the correct rates of pay, including all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, the employer's name and address, all earned sick pay, all nonproductive time, all nonproductive time wages earned, all rest and recovery time, all rest and recovery time wages earned, start date of pay period, end date of pay period, gross wages earned, net wages earned, all deductions, name of employer, address of employer, all hourly rates, all hours work at each rate of pay, and related information. As a result, the World At Your Doorstep Employers have failed to accurately maintain all records required by section 1174 and the Wage Order, including but not limited to Flores-Velazquez and all of the other Aggrieved Employees' total hours worked, total wages paid, and applicable hourly rates during each payroll period. Accordingly, Flores-Velazquez seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$500 for each aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code section 1174.5); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each Aggrieved Employee for each

subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Person Acting on Behalf of Employers who Violates Labor Code
(Labor Code § 558.1)

In relevant part, Labor Code section 558.1 states:

- (a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.
- (b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Marilyn Wrightsman was an employer of Flores-Velazquez and all of the other Aggrieved Employees, and/or “owner,” “managing agent,” and/or “officer” of the World At Your Doorstep Employers and the other employers identified above. Marilyn Wrightsman directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Aggrieved Employees, and caused the violations to the Labor Code and the Wage Order described above. On behalf of himself and all of the other Aggrieved Employees, Flores-Velazquez seeks the same civil penalties against Marilyn Wrightsman on the same grounds for which he seeks civil penalties against the World At Your Doorstep Employers.

LWDA / The World At Your Doorstep

Re: Juan Flores-Velazquez

September 15, 2022

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Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Juan Flores-Velazquez will seek both reasonable attorneys' fees and costs under Labor Code section 2699(g)(1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure section 1021.5 to resolve this matter before litigation.

Sincerely,



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cc: Mr. Juan Flores-Velazquez

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I am familiar with the practice of The Spivak Law Firm, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

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XXX (BY EMAIL) I caused the documents to be sent to the persons at the electronic service addresses listed above from my electronic service address stacy@spivaklaw.com.

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


STACY SUSSMAN