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Kern County Superior Court
By Alexandra Valles, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

JOSE JEOVANI MARTINEZ, individually, and on behalf of all other similarly situated employees of Defendants,

Plaintiff,

v.

FASTRIP FOOD STORES, INC.; JACO OIL COMPANY; and DOES 1 through 50, Inclusive,

Defendants.

Case No.: BCV-25-103061

INDIVIDUAL, CLASS, AND REPRESENTATIVE COMPLAINT

1. Failure to Provide Compliant Meal Periods and/or Pay Premium Wages in Lieu Thereof;
2. Failure to Authorize or Permit Compliant Rest Periods and/or Pay Premium Wages in Lieu Thereof;
3. Failure to Pay Minimum Wages;
4. Failure to Pay Overtime Wages;
5. Failure to Reimburse Necessary Business Expenses;
6. Failure to Provide Accurate Itemized Wage Statements;
7. Failure to Timely Pay All Wages Owed Upon Termination;
8. Failure to Produce Employment Records Upon Request;
9. Violation of Business and Professions Code § 17200 *et seq*.; and
10. Representative Action for Civil Penalties Pursuant to the Private Attorneys General Act of 2004 (Labor Code § 2698 *et seq*.)

DEMAND FOR JURY TRIAL

Plaintiff Jose Jeovani Martinez ("Plaintiff"), by and through his attorneys of record, brings this individual, class action, and Private Attorneys General Act ("PAGA") enforcement action on behalf of himself and all others similarly situated, against Defendants Fastrip Food Stores, Inc., Jaco Oil Company, and Does 1 through 50, inclusive, (collectively, "Defendants") on the following grounds:

INTRODUCTION

1. This class action is brought on behalf of all current and former non-exempt employees of Defendants in the State of California.

2. Plaintiff brings this representative enforcement action under the PAGA on behalf of himself and all other current and former non-exempt employees in California who performed work for Defendants and who have suffered at least one of the same Labor Code violations alleged herein during the relevant time period (referred to herein as "Aggrieved Employees").

3. Through this action, Plaintiff alleges that Defendants have engaged in a systematic pattern and practice of violating the California Labor Code and the applicable Industrial Welfare Commission ("IWC") Wage Order.

4. Plaintiff is informed and believes, and thereon alleges, that Defendants have increased their profits by violating state wage and hour laws by, among other things:

a. Failing to provide compliant meal periods or compensation in lieu thereof;

b. Failing to authorize or permit compliant rest periods or compensation in lieu thereof;

c. Failing to pay minimum wages;

d. Failing to pay overtime wages;

e. Failure to reimburse necessary business expenses;

f. Failing to provide accurate, itemized wage statements;

g. Failing to timely pay all wages owed upon termination of employment;

h. Failing to produce employment records upon written request; and

i. Engaging in unlawful, unfair, and fraudulent business practices.

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5. By and through this class and representative action, Plaintiff seeks to recover all available remedies, including, but not limited to, damages, restitution, penalties, and injunctive relief, as well as reasonable attorneys' fees and litigation costs, as provided under California law.

6. All allegations in this Complaint are based upon information and belief except those allegations that pertain to Plaintiff named herein and his counsel, which are based upon personal knowledge. Each allegation in this Compliant has evidentiary support or is likely to have evidentiary support after reasonable opportunity for further investigation and formal discovery.

JURISDICTION AND VENUE

7. Pursuant to Code of Civil Procedure section 382 and Business & Professions Code section 17203, Plaintiff brings this action on behalf of himself, and on behalf of all persons within the Class, as defined below.

8. The Court has jurisdiction over this action pursuant to Code of Civil Procedure section 410.10. Defendants are licensed to do business, and are actually doing business, in the State of California. The amount in controversy, exclusive of interest, costs, and attorneys' fees, exceeds the minimum jurisdictional amount for this Court.

9. Venue is proper in this judicial district pursuant to Code of Civil Procedure sections 395 and 395.5 because many of the acts, conduct, and events alleged herein occurred in this county. Defendants conduct business in the State of California and have caused injuries in the County of Kern, County of Los Angeles, County of Riverside, County of Fresno, County of Tulare, and County of Kings, as well as throughout the State of California, through their acts, omissions, and violations of the Labor Code and Business & Professions Code. Defendants transact business in Kern County, and their principal corporate offices are located in Bakersfield, California. Defendants are within this Court's jurisdiction for purposes of service of process.

10. Pursuant to rule 3.400 of the California Rules of Court, this case shall be deemed a complex action because it is filed as a class action that involves specialized case management, extensive discovery and evidence, difficult and/or novel issues, and is likely to require extensive post-judgment supervision.

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THE PARTIES

11. Plaintiff Jose Jeovani Martinez is, and at all times relevant to this Complaint was, an adult individual residing in Kern County, in the State of California.

12. Plaintiff was employed by Defendants as a non-exempt employee of Defendants in the State of California, County of Kern.

13. At all relevant times, other similarly situated non-exempt employees of Defendants in California have been subject to the same policies, procedures, and practices governing their hours worked, payment of wages, and employment in general.

14. Defendant Jaco Oil Company is headquartered in Bakersfield, California and provides centralized support, including human resources and information technology services to affiliated entities, including Defendant Fastrip Food Stores, Inc.

15. Defendant Jaco Oil Company is an employer or other person acting on behalf of an employer pursuant to Labor Code section 1197.1 and Labor Code section 558.

16. Defendant Fastrip Food Stores, Inc. is a California corporation that owns and operates approximately 55 Fastrip convenience stores throughout California. Defendant Fastrip Food Stores, Inc. leases approximately 44 of their Fastrip convenience stores in California to other individuals or entities through a business model in which Defendant Fastrip Food Stores, Inc. retains the supervision of the leased stores and lease operators through their own district manager, merchandise managers and a Director of Stores.

17. Defendant Fastrip Food Stores, Inc. is an employer or other person acting on behalf of an employer pursuant to Labor Code section 1197.1 and Labor Code section 558.

18. Plaintiff is informed and believes, and thereon alleges, that Defendants, at all times relevant to this Complaint, were and are employers, as defined in and subject to the Labor Code and applicable IWC Wage Order, whose employees were and are engaged in work throughout this county and the State of California.

19. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate, or otherwise of Doe Defendants 1 through 10, are unknown to Plaintiff, who therefore sues these defendants by such fictitious names pursuant to Code of Civil Procedure section 474. Plaintiff will

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amend his Complaint to allege the true names and capacities of Does 1 through 10 when they are ascertained.

20. At all times relevant to this Complaint, acts alleged to have been done by Defendants are also alleged to have been done by the unascertained defendants mentioned above, and by each of their agents and employees who acted within the scope of their agency and/or employment.

21. At all times relevant to this Complaint, the acts and omissions of each of the defendants concurrently contributed to the various acts and omissions of each and every one of the other defendants in proximately causing the wrongful conduct, harm, and damages alleged herein. Each of the defendants approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

22. At all times mentioned herein, the acts alleged to have been done and/or caused by the named defendant are also alleged to have been done and/or caused by the fictitiously named defendants, and by each of their agents and/or employees who acted within the scope of their agency and/or employment.

23. At all times mentioned herein, each named defendant, including each fictitiously named defendant, is believed to have acted individually or as an officer, agent, or employee of the other defendants, including each fictitiously named defendant.

24. At all times mentioned herein, each named defendant, including each fictitiously named defendant, acted as an agent, servant, employee, co-conspirator, alter-ego and/or joint venture of the other defendants, and in doing the things alleged herein, acted within the course and scope of such agency, employment, alter-ego and/or in furtherance of the joint venture.

25. At all times mentioned herein, the acts and/or omissions of each of the named defendants, including each fictitiously named defendant, concurrently contributed to the various acts and/or omissions of each and every one of the other defendants, including each fictitiously named defendant, in proximately causing the wrongful conduct, harm, and/or damages alleged herein.

26. Each of the named defendants, including each fictitiously named defendant, approved of, condoned, and/or otherwise ratified each and every one of the acts and/or omissions complained herein.

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27. Each named defendant, including each fictitiously named defendant, was and is acting with the authority of each and every other defendant and/or are acting as agents of each and every other defendant or Doe defendant.

28. At all times mentioned herein there was a unity of interest and ownership between each named defendant, including each fictitiously named defendant, such that all defendants, including each fictitiously named defendant, acted as a single employer of Plaintiff and all other similarly situated employees.

29. At all times mentioned herein, each named defendant, including each fictitiously named defendant, exercised supervision and control over the wages, hours, and/or working conditions of Plaintiff and all other similarly situated employees, including, but not limited to, implementing standard policies and procedures.

30. At all times mentioned herein, each named defendant, including each fictitiously named defendant, caused and/or prevented Plaintiff and other similarly situated employees from working.

31. At all times mentioned herein, each named defendant, including each fictitiously named defendant, had control over Plaintiff and other similarly situated employees.

32. Each named defendant, including each fictitiously named defendant, is alleged to have caused each of the violations alleged herein.

33. Each named defendant, including each fictitiously named defendant, is jointly and severally liable for each of the violations alleged herein.

GENERAL FACTUAL ALLEGATIONS

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

35. Plaintiff Jose Jeovani Martinez was employed by Defendants as a cashier from approximately November 2023 to December 31, 2024, at Defendants' Fastrip Food Stores located in Rosamond and Mojave, California. As a cashier, Plaintiff's primary job duties included tending to customer needs, preparing coffee, providing janitorial services, and general maintenance. Throughout his employment, Plaintiff was classified as a non-exempt, hourly employee and was paid on a bi-weekly basis.

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36. Plaintiff and other non-exempt employees are scheduled full-time. Plaintiff was typically scheduled to work the night shift (or graveyard shift) from 11:00 p.m. to 7:00 a.m.

37. Plaintiff alleges that throughout his employment, he and other non-exempt employees were routinely denied off-duty, uninterrupted meal periods as required by California law. Defendants maintained a common policy and practice of understaffing its work locations such that Plaintiff and other non-exempt employees were not relieved of their work duties to take off-duty, uninterrupted meal periods. Defendants regularly staffed only one or two employees per shift, making it impossible for employees to take compliant meal periods, as they were required to attend to customer needs at all times during their shifts. Indeed, Plaintiff was barely able to take bathroom breaks during his shift, let alone a 30-minute meal period. On one occasion, Plaintiff asked his manager how he was expected to use the restroom during his shift when he was scheduled to work alone; the manager laughed and responded that he would need to make it quick.

38. Defendants further maintained a policy of automatically deducting 30 minutes for a meal period from each shift, regardless of whether Plaintiff or other non-exempt employees received a compliant meal period.

39. Plaintiff and other non-exempt employees did not sign a valid on-duty meal period agreement or meal period waiver at any point during their employment.

40. Defendants maintained a common policy and practice of failing to pay Plaintiff and other non-exempt employees meal period premium wages at their regular rate of compensation for each shift in which they received a non-compliant meal period or were forced to forgo their meal period.

41. Similarly, Plaintiff alleges he and other non-exempt employees were, and still are, consistently denied off-duty, uninterrupted rest periods, in violation of California law. For the same reasons Plaintiff was unable to take his meal periods, Plaintiff was rarely able to take an off-duty rest period because he was scheduled to work alone during his shifts and no one was available to watch the store while he took a rest break. Plaintiff complained on multiple occasions about the lack of off-duty rest breaks, but management responded that they were unable to provide such breaks.

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42. Defendants maintained a common policy and practice of failing to pay Plaintiff and other non-exempt employees rest period premium wages at their regular rate of compensation for each shift in which they received a non-compliant rest period or were forced to forgo their rest period.

43. In addition, Plaintiff contends that Defendants fail to pay him and other non-exempt employees at least minimum wage for all hours worked in accordance with California law.

44. Defendants failed to maintain accurate records of employees' start and end times. Plaintiff was explicitly told he did not need to record his actual hours worked because he would only be paid for his scheduled shift, regardless of when he actually began or ended work.

45. It was a common practice for Plaintiff and other non-exempt employees to work additional, unscheduled hours as they often worked past their scheduled shift end time because the next shift's employee was late or failed to appear. For example, Plaintiff worked two consecutive shifts on multiple occasions, yet Defendants only compensated him for his regularly scheduled 11:00 p.m. to 7:00 a.m. shift. Moreover, Plaintiff and other non-exempt employees were not paid all earned and owed wages. For example, Defendants failed to pay Plaintiff for his work during November and December 2024. Specifically, Plaintiff received compensation for only 36 hours of work for the entire month of December, despite working substantially more. Plaintiff repeatedly requested payment for all hours worked, but Defendants failed to correct the missing payments. As a result, and with no alternative means of obtaining his wages, Plaintiff was forced to resign on December 31, 2024. To date, Plaintiff has not received payment for all hours worked in November and December 2024.

46. Moreover, Plaintiff and other non-exempt employees were not paid at least minimum wages for time spent working through their meal periods as Defendants maintained a common practice of automatically deducting 30 minutes from their daily wages for their meal periods, even though they had not been provided with an off-duty, uninterrupted meal period of at least 30 minutes.

47. Plaintiff alleges that Defendants failed to pay him and other non-exempt employees overtime compensation for all hours in excess of eight in a workday and/or 40 in a workweek, as required by California law. As previously described, Defendants failed to account for all hours worked, including time spent working through meal periods and time spent waiting for the next employee scheduled to relieve them at the end of their shifts. Because Plaintiff and other employees were regularly scheduled to

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work eight-hour shifts, this additional off-the-clock work resulted in overtime hours for which Defendants failed to provide lawful compensation.

48. Plaintiff also alleges that Defendants failed to pay him and other non-exempt employees for necessary business expenses like gas when employees were required to use their personal vehicles to travel between the Rosamond and Mojave locations, or other work locations, during the same shift.

49. As a result of Defendants' failure to maintain accurate records of the hours actually worked by non-exempt employees, failure to compensate non-exempt employees for all hours worked, failure to pay meal and rest premiums for non-compliant breaks, Plaintiff and other non-exempt employees did not receive wage statements reflecting the information required by California law including, but not limited to, the total hours worked by the employee; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee; the gross wages earned; the net waged earned; and the pay period information for each wage statement.

50. Plaintiff and other non-exempt employees further received wage statements with the incorrect name and address of the legal entity that is their employer for each pay period that they worked, in violation of Labor Code section 226(a)(8).

51. Due to the incorrect and/or lack of information included on the wage statements furnished by Defendants, Plaintiff and other non-exempt employees were unable to promptly and easily determine from their wage statement alone the total number of hours they actually worked, whether they were properly paid all earned wages, the appropriate rate of pay during the pay period, the corresponding number of hours worked at each hourly rate, and the correct identity of their employer, among other things.

52. Plaintiff contends that at all relevant times, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to maintain accurate employment records for Plaintiff and other Aggrieved Employees. For instance, Defendants failed to record the actual hours worked by Plaintiff and other Aggrieved Employees, instead recording and paying them based on their scheduled hours worked.

53. As a result of Defendants' willful failure to pay all minimum, overtime, and/or meal and rest break premium wages, Plaintiff and other former non-exempt employees were not paid all earned wages upon separation or termination of employment.

54. As a further result of Defendants' policies, practices, procedures, guidelines and/or culture

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described herein including, but not limited to, their failure to provide meal and rest periods and pay all earned wages, Defendants engaged in unlawful, unfair, and fraudulent business practices.

55. Plaintiff alleges that Defendants' acts and omissions described herein have caused harm to Plaintiff and other non-exempt employees. Plaintiff further contends that Defendants have knowingly and intentionally engaged in systemic violations of the Labor Code and IWC Wage Orders by maintaining policies and practices that are inconsistent with their obligations under California law.

56. On April 29, 2025, Plaintiff requested, in writing, that Defendants provide him with a copy of his personnel file, documents signed by him, his payroll records, and other employment records in accordance with Labor Code sections 226(b) and (c), 432, 1198.5 and the "Records" section of the applicable IWC Wage Order.

57. Defendants have yet to produce the employment records requested by Plaintiff.

58. On May 23, 2025, Plaintiff submitted written notice to the California Labor and Workforce Development Agency ("LWDA"), and Defendants as required by the Private Attorneys General Act ("PAGA") informing them of Defendants' alleged violations of the Labor Code and IWC Wage Orders. A true and correct copy of the May 23, 2025 written notice is attached hereto as **Exhibit 1** and incorporated herein by reference.

59. To date, the LWDA has not provided notice of its intent to investigate the alleged violations.

60. Plaintiff believes that additional violations may be discovered and therefore reserves his right to allege additional violations of law as investigation and discovery warrants. In the event Plaintiff discovers additional violations, Plaintiff will seek to amend the operative Complaint.

CLASS ACTION ALLEGATIONS

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

62. Plaintiff brings this action on behalf of himself and on behalf of all others similarly situated and therefore seeks class certification under Code of Civil Procedure section 382.

63. Plaintiff's proposed Class is defined as follows:

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> All current and former non-exempt employees hired directly by Defendant Fastrip Food Stores, Inc. or hired through the leased operator of Defendant Fastrip Food Stores, Inc., and who worked at any of the Fastrip Food Stores locations owned and/or leased by Defendants in the State of California at any time during the four years preceding the filing of the Complaint through the date of judgment in this action.

64. Plaintiff will also seek to certify the following Waiting Time Penalties Subclass:

> All members of the Class, whose employment with Defendants ended at any time from three years prior to the filing of the Complaint, through the present.

65. Members of the Class described above will be collectively referred to as "class members." Plaintiff reserves the right to establish other or additional subclasses, or modify any Class or Subclass definition, as appropriate based on investigation, discovery and specific theories of liability.

66. This action has been brought and may properly be maintained as a class action because there are common questions of law and fact as to the Class that predominate over questions affecting only individual members, including, but not limited to:

a. Whether Defendants failed to provide Plaintiff and other class members legally compliant meal periods or compensation in lieu thereof;

b. Whether Defendants failed to provide Plaintiff and other class members legally compliant rest periods or compensation in lieu thereof;

c. Whether Defendants failed to pay Plaintiff and other class members minimum wage in compliance with California law;

d. Whether Defendants failed to pay Plaintiff and other class members overtime in compliance with California law;

e. Whether Defendants failed to reimburse Plaintiff and other class members for incurred business expenses;

f. Whether Defendants failed to provide Plaintiff and other class members accurate, itemized wage statements;

g. Whether Plaintiff and other class members are entitled to waiting time penalties; and

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h. Whether Defendants' policies and practices violate Business and Professions Code section 17200 et seq., which broadly prohibits unlawful, unfair, or fraudulent business practices.

67. There is a well-defined community of interest in this litigation and the Class is readily ascertainable:

a. **<u>Numerosity</u>:** The members of the Class are so numerous that joinder of all members is impractical. Although the members of the Class are unknown to Plaintiff at this time, on information and belief, the Class is estimated to be greater than 50 individuals. The identity of the class members is readily ascertainable by inspection of Defendants' employment and payroll records.

b. **<u>Typicality</u>:** The claims of Plaintiff are typical of the claims of the Class because Defendants' failure to comply with the provisions of California wage and hour laws entitles each class member to similar pay, benefits, and other relief. The injuries sustained by Plaintiff are also typical of the injuries sustained by the Class because they arise out of and are caused by Defendants' common course of conduct, as alleged herein.

c. **<u>Adequacy</u>:** Plaintiff is qualified to represent the Class and is ready and willing to take the time necessary to help prosecute this case. Plaintiff has no conflicts that will prevent him from fairly and adequately representing and protecting the interests of the Class. In addition, Plaintiff's attorneys, as proposed class counsel, are competent and highly experienced in litigating employment class actions and are well-versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred and will continue to incur attorneys' fees and costs for the prosecution of this action for the substantial benefit of each class member.

d. **<u>Superiority</u>:** The nature of this action makes class action adjudication superior to other methods because individual joinder of all class members is impractical. A class action will achieve economies of time, effort and expense as compared to a series of separate lawsuits, and will avoid inconsistent outcomes because the same

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issues can be adjudicated in the same manner and at the same time for each class member. If appropriate, this Court is empowered to fashion methods to efficiently manage this case as a class action.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Failure to Provide Compliant Meal Periods and/or Pay Premium Wages in Lieu Thereof

(Alleged by Plaintiff, Individually and on Behalf of the Class, Against All Defendants)

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

69. Labor Code section 512(a) provides:

> 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.

70. A meal period generally comports with the requirements under California law if the employee (1) has at least thirty (30) minutes uninterrupted, (2) is free to leave the premises, and (3) is relieved of all duty for the entire period. *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1036 (2012). Additionally, "an employer may not undermine formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks." *Id.* at 1040.

71. Labor Code section 226.7(b) states, "[a]n 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 . . . ." Labor Code section 226.7(c) further provides:

> If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law . . . the employer shall pay the employee one

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> 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.

72. The term "regular rate of compensation" under Labor Code section 226.7(c) is synonymous with "regular rate of pay" under Labor Code section 510(a), in that all nondiscretionary payments must be factored into the rate. *See Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858, 862 (2021).

73. Plaintiff and class members regularly worked in excess of five hours a day without being provided an off-duty, interrupted meal period of at least 30 minutes before the end of the fifth hour of work, as required by Labor Code sections 226.7(a) and 512(a) and the applicable IWC Wage Order.

74. Defendants have failed thus far to pay Plaintiff and class members all premium compensation mandated by the Labor Code Section 226.7 and the applicable IWC Wage Order for untimely, missed, and otherwise non-compliant meal periods.

75. As a result of Defendants' unlawful policies and practices, Plaintiff and the other class members are entitled to recover unpaid premium wages and prejudgment interest on the amount of premium wages owed, as well as reasonable attorneys' fees and costs of suit, pursuant to Labor Code sections 218.5, 218.6, and 226.7, and Code of Civil Procedure section 1021.5.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

SECOND CAUSE OF ACTION

<u>Failure to Authorize or Permit Compliant Rest Periods and/or Pay Premium Wages in Lieu Thereof</u>

(Alleged by Plaintiff, Individually and on Behalf of the Class, Against All Defendants)

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

77. The "Rest Periods" section of the applicable IWC Wage Order provides:

> (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 of 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.

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> (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.

78. During rest periods, California law requires employers to relinquish all control over their employees and relieve their employees of all duties. *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 267, 269 (2016).

79. In pertinent part, 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 workday that the meal or rest or recovery period is not provided.

80. As explained above, the California Supreme Court has found that the term "regular rate of compensation" under Labor Code section 226.7(c) is synonymous with "regular rate of pay," such that all nondiscretionary payments must be factored into the rate. *See Ferra, supra,* 11 Cal. 5th at 862.

81. Plaintiff alleges that while he and other non-exempt employees have not consistently been provided with off-duty, uninterrupted rest periods, Defendants fail to compensate them rest period premium wages in accordance with California law.

82. Under Labor Code sections 218.5, 218.6, and 226.7 and Code of Civil Procedure section 1021.5, Plaintiff and the other class members are entitled to recover unpaid premium wages, interest thereon, reasonable attorneys' fees, and costs of suit.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

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THIRD CAUSE OF ACTION

<u>Failure to Pay Minimum Wages</u>

(Alleged by Plaintiff, Individually and on Behalf of the Class, Against All Defendants)

83. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs, as though fully set forth herein.

84. Labor Code section 1197 provides, "[t]he 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 wage so fixed is unlawful."

85. The "Minimum Wages" section of the applicable IWC Wage Order provides that an employer may not pay employees less than the applicable minimum wage for all hours worked.

86. The applicable IWC Wage Order defines the term "hours worked" as "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."

87. Labor Code section 1194 provides, in part, that any employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the minimum wage, including interest thereon, reasonable attorney's fees, and costs of suit.

88. Labor Code section 1194.2 allows an employee to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon for any action under Labor Code section 1194.

89. Here, Plaintiff alleges that in failing to account for and compensate all hours worked, Defendants violate California law and deprive him and other class members of minimum and regular pay they are entitled to.

90. Plaintiff and class members are entitled to recover the full amount of the unpaid minimum wages, in addition to interest, statutory penalties, and attorneys' fees and costs pursuant to Labor Code sections 218.5, 1194, 1194.2, and 1197.1, and Code of Civil Procedure section 1021.5.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

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FOURTH CAUSE OF ACTION

Failure to Pay Overtime Wages

(Alleged by Plaintiff, Individually and on Behalf of the Class, Against All Defendants)

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

92. Labor Code section 510(a), which codifies an employee's right to overtime compensation, provides:

> 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. 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. 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.

93. The "Hours and Days of Work" section in the applicable Industrial Welfare Commission Wage Order has the same requirements as Labor Code section 510.

94. Labor Code section 1194(a) provides:

> 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.

95. Both state and federal law prohibit employers from reducing employees' hourly rates in order to evade their obligation to pay overtime. *See Huntington Mem'l Hosp. v. Superior Court*, 131 Cal. App. 4th 893, 905 (2005). "Overtime rates cannot be avoided by manipulating the pay for regular hours or otherwise reducing the pay for regular hours to make up for the . . . overtime rate that will have to be paid." *Id.* (citing *Reich v. Midwest Body Corp.*, 843 F. Supp. 1249, 1251] (N.D. Ill. 1994)).

96. Here, Plaintiff alleges that Defendants failed to pay overtime wages when he and other class members worked in excess of eight hours per day and over forty hours within a workweek. As such,

Defendants violate California law and deprive him, and other class members of overtime pay.

97. Plaintiff and class members are entitled to recover the full amount of unpaid overtime, in addition to interest, statutory penalties, and attorneys' fees and costs pursuant to Labor Code sections 218.5 and 1194, and Code of Civil Procedure section 1021.5.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

FIFTH CAUSE OF ACTION

Failure to Reimburse Necessary Business Expenses

(Alleged by Plaintiff, Individually and on Behalf of the Class, Against All Defendants)

98. Plaintiff realleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

99. Labor Code section 2802(a) provides, in pertinent part, "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

100. Plaintiff and other class members were required to use their personal vehicles to drive to different work locations during the same shift. Plaintiff and class members were required to pay for their own gas without reimbursement.

101. As a result, Plaintiff and other class members incurred expenditures in the discharge of their duties, including the use of their personal vehicles.

102. Plaintiff and class members are entitled to recover the full amount of unreimbursed business expenses, in addition to interest and attorneys' fees and costs pursuant to Labor Code sections 218.5 and 2802(c), and Code of Civil Procedure section 1021.5.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

SIXTH CAUSE OF ACTION

Failure to Provide Accurate Itemized Wage Statements

(Alleged by Plaintiff, Individually and on Behalf of the Class, Against All Defendants)

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

104. Under Labor Code section 226(a), an employer must provide an accurate itemized

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statement in writing showing, among other things, the gross wages earned, the total hours worked by the employee, the inclusive dates of the period for which the employee is paid, the name and address of the legal employer, and 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. Under Labor Code section 226(e), an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with section 226(a) is entitled to recover the greater of all actual damages or statutory penalties in the amount of $50 for the initial pay period in which a violation occurs and $100 for each violation in a subsequent pay period, up to a maximum amount of $4,000.

106. Injury occurs where the employer fails to provide accurate information and the employee cannot promptly and easily determine the total number of hours worked or the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226(e)(2)(A)-(B).

107. Labor Code section 226(e)(2)(C) explains that the phrase "promptly and easily determine" means that "a reasonable person would be able to readily ascertain the information without reference to other documents or information."

108. The wage statements Defendants provide to Plaintiff and class members do not comply with California law because they do not accurately reflect the total hours worked, the applicable hourly rates and the corresponding number of hours worked, and the gross wages earned by each employee. Plaintiff and class members are unable to ascertain whether or not they were paid for all work performed without referencing other documents or outside information. Moreover, the wage statements furnished by Defendants do not have the correct name and address of the legal entity that is Plaintiff and class members' employer, thereby preventing them from identifying their employer and causing further confusion.

109. Defendants' unlawful policies and practices, as alleged herein, violate Labor Code section 226(a) and entitle Plaintiff and class members to recover statutory damages, as well as reasonable attorneys' fees and costs, pursuant to Labor Code section 226(e)(1) and Code of Civil Procedure section 1021.5.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

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SEVENTH CAUSE OF ACTION

Failure to Timely Pay All Wages Owed Upon Termination

(Alleged by Plaintiff, Individually and on Behalf of the Waiting Time Penalties Subclass, Against All Defendants)

110. Plaintiff realleges and incorporates by reference the preceding paragraphs, as though fully set forth herein.

111. Labor Code section 201(a) states: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

112. Under Labor Code section 202(a):

> 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. 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.

113. Labor Code section 203 further provides:

> If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any 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.

114. As described above, Defendants' unlawful practices resulted in Plaintiff and other former non-exempt employees not receiving all earned wages upon separation or termination of employment, including compensation for off-the-clock work and premiums for noncompliant meal and rest periods. As a consequence of Defendants' willful and deliberate refusal to tender such wages, the affected class members are entitled to 30 days' wages as a waiting time penalty pursuant to Labor Code section 203.

115. In addition, pursuant to Labor Code section 218.5 and Code of Civil Procedure section 1021.5, Plaintiff and the class members are entitled to seek, and do seek, an award of their reasonable attorneys' fees and costs incurred in prosecuting this matter.

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WHEREFORE, Plaintiff prays for relief as hereinafter requested.

EIGHTH CAUSE OF ACTION

Failure to Produce Employment Records Upon Request

(Alleged by Plaintiff, individually, Against All Defendants)

116. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

117. Labor Code section 226(b) requires an employer to keep the information required by Labor Code section 226(a) and afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request.

118. Labor Code section 226(c) requires an employer who receives a written or oral request to inspect or to receive a copy of records pursuant to Labor Code section 226(b) to comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.

119. Labor Code section 432 provides that "if an employee or applicant signs an instrument relating to obtaining or holding of employment, he shall be given a copy of the instrument upon request."

120. Labor Code section 1198.5(a) grants every current and former employee, or their representative, the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievances concerning the employee.

121. Labor Code section 1198.5(b)(1) requires an employer to make the contents of an employee's personnel records available for inspection or to provide a copy of the employee's personnel records not later than 30 calendar days from the date the employer receives the request.

122. Labor Code section 226(f) provides that a current or former employee is entitled to recover a seven-hundred-fifty dollar ($750) penalty from the employer if the employer fails to permit a current or former employee to inspect or receive a copy of records within the time set forth in Labor Code section 226(c).

123. Labor Code section 1198.5(k) provides that a current or former employee may recover a penalty of seven-hundred-fifty dollars ($750) from the employer if the employer fails to permit a current or former employee, or their representative, to inspect or copy personnel records within the times specified in Labor Code section 1198.5.

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124. Labor Code section 1198.5(l) permits a current or former employee to bring an action for injunctive relief to obtain compliance with Labor Code section 1198.5 and may recover costs and reasonable attorney's fees in such action.

125. Defendants failed to produce Plaintiff's employment records upon request.

126. On April 29, 2025, Plaintiff requested, in writing, that Defendants provide him with a copy of his personnel file, documents signed by him, his payroll records, and other employment records in accordance with Labor Code sections 226(b) and (c), 432, and 1198.5.

127. Defendants have yet to produce the employment records requested by Plaintiff.

128. Having not received a copy of his employment records, Plaintiff is entitled to and seeks to recover the penalties outlined in Labor Code sections 226(f) and 1198.5.

129. Plaintiff is entitled to and seeks injunctive relief under Labor Code section 1198.5(l) to ensure compliance with Labor Code section 1198.5.

130. Plaintiff is entitled to and seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code sections 218.5 and 1198.5(l).

Plaintiff, on behalf of himself, requests further relief as described in the below prayer.

NINTH CAUSE OF ACTION

<u>Violation of Business and Professions Code section 17200 et seq.</u>

(Alleged by Plaintiff, Individually and on Behalf of the Class, Against All Defendants)

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

132. As codified in Business and Professions section 17200 et seq., California's Unfair Competition Law ("UCL") broadly prohibits "any unlawful, unfair or fraudulent business act or practice."

133. The UCL permits a cause of action to be brought if a practice violates some other law. In effect, the "unlawful" prong of the UCL makes a violation of the underlying law a per se violation of Business and Professions Code section 17200. *Cel-Tech Commc'ns, Inc. v. Los Angeles Cellular Tel. Co.*, 20 Cal. 4th 163, 180 (1999). Virtually any law or regulation—federal or state, statutory or common law—can serve as predicate for a section 17200 violation. *See Farmers Ins. Exch. v. Superior Court*, 2 Cal. 4th 377, 383 (1992).

134. Under the UCL, a practice may be "unfair" even if not specifically proscribed by some other law. *Korea Supply Co. v. Lockheed Martin Corp*., 29 Cal. 4th 1134, 1143 (2003) (internal citations omitted). According to the California Supreme Court, the "unfair" standard is intentionally broad to allow courts maximum discretion in prohibiting new schemes to defraud. *Cel-Tech Commc'ns, Inc.,* 20 Cal. 4th at 180-81.

135. A business act or practice is deemed "fraudulent" under section 17200 where "members of the public are likely to be deceived." *Blakemore v. Superior Court*, 129 Cal. App. 4th 36, 49 (2005). That is, a showing of actual deception, reasonable reliance, or damages is not required. *Id.* The "fraudulent" prong of the UCL can be used to attack the deceptive manner in which otherwise lawful contract terms are presented to an individual. *See Boschma v. Home Loan Ctr., Inc*., 198 Cal. App. 4th 230, 253 (2011). Even a true statement may be unlawful under section 17200 if it is "couched in such a manner that it is likely to mislead or deceive . . . , such as by failure to disclose other relevant information." *Id.*

136. As set forth in the preceding paragraphs, Defendants' business practices, including but not limited to, Defendants' auto-deduct policy for meal periods, payment of wages based on scheduled—not actual—hours worked, and failure to furnish accurate itemized wage statements, undoubtedly violate California's UCL.

137. As a direct and proximate result of Defendants' unlawful, unfair, and fraudulent business practices, Plaintiff and the class members have suffered injury-in-fact and have lost wages rightfully owed to them.

138. Through its unlawful, unfair, and fraudulent conduct, Defendants have reaped, and continue to reap, benefits and profits at the expense of putative class members. Pursuant to Business and Professions Code section 17203, Defendants should be enjoined from this activity and made to disgorge all ill-gotten gains and restore to Plaintiff and class members, the wages wrongfully withheld from them.

139. Moreover, the conduct alleged herein is continuing, and there is no indication that Defendants will refrain from such activity in the future. Plaintiff believes and alleges that if Defendants are not enjoined from the unlawful, unfair, and fraudulent conduct described herein, they will continue to violate California's wage and hour laws and public policy. Accordingly, Plaintiff requests that the Court issue a preliminary and permanent injunction.

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WHEREFORE, Plaintiff prays for relief as hereinafter requested.

TENTH CAUSE OF ACTION

Representative Action for Civil Penalties Pursuant to the Private Attorneys General Act of 2004

(Labor Code §§ 2698 *et seq.*)

(Alleged by Plaintiff, individually and on behalf of Aggrieved Employees, Against All Defendants)

140. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

141. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks to recover civil penalties, injunctive relief, and attorneys' fees and costs through this enforcement action based on the following:

a. Failure to timely pay all minimum and/or regular wages during employment in violation of Labor Code sections 204, 1194, 1197, 1198, and the "Minimum Wages" and "Hours and Days of Work" sections of the applicable IWC Wage Order;

b. Failure to timely pay all overtime wages during employment in violation of Labor Code sections 204, 510, 1194, 1197, 1198, and the "Hours and Days of Work" sections of the applicable IWC Wage Order;

c. Failure to provide legally compliant meal periods and/or timely pay premium wages for non-compliant meal periods during employment in violation of Labor Code sections 204, 226.7, 512, 1198, and the "Meal Periods" section of the applicable IWC Wage Order;

d. Failure to authorize or permit legally compliant rest periods and/or timely pay premium wages for non-compliant rest periods during employment in violation of Labor Code sections 204, 226.7, and the "Rest Periods" section of the applicable IWC Wage Order;

e. Failure to furnish accurate itemized wage statements in violation of Labor Code sections 226 and the "Records" section of the applicable IWC Wage Order;

f. Failure to maintain accurate employment records in violation of Labor Code sections 1174 and the "Records" section of the applicable IWC Wage Order;

g. Failure to reimburse for necessary business expenses in violation of Labor Code section 2802; and

h. Failure to pay all wages owed upon separation of employment pursuant to Labor Code sections 201, 202, and 203.

142. Labor Code section 210 provides that any person who fails to pay wages as provided in Labor Code sections 201.3, 203, 204, 204(b), 204.1, 204.2, 205, 205.5, and 1197.5 shall be subject to a civil penalty of $100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation $200 for each failure to pay each employee, plus 25% of the amount unlawfully withheld, in addition to any other penalty. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks the civil penalty imposed by Labor Code section 210.

143. For violations of Labor Code sections 510 and 512, in addition to any other recovery provided by law, Labor Code section 558 imposes a civil penalty of $50 per pay period for each underpaid employee for the initial violation and $100 per pay period for each underpaid employee for each subsequent violation of any section of Labor Code Division 2, Part 2, Chapter 1, or any provision regulating hours and days of work in any order of the IWC. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks the civil penalty imposed by Labor Code section 558.

144. For violations of Labor Code section 1174 subdivisions (c) and (d), Labor Code section 1174.5 imposes a civil penalty of $500 for any willful violation. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks the civil penalty imposed by Labor Code section 1174.5 for all willful violations.

145. Labor Code section 1197.1 imposes a civil penalty of $100 for each underpaid employee for each pay period for which the employee is underpaid and a subsequent civil penalty of $250 for each underpaid employee for each pay period for which the employee is underpaid for paying or causing an employee to be paid a wage less than the minimum wage. Plaintiff, on behalf of himself, the State of

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California, and all other Aggrieved Employees, seeks the civil penalty imposed by Labor Code section 1197.1.

146. Labor Code section 2699(f)(2)(A) provides that for violations of Labor Code section 226, if the violation is a violation of paragraphs (1) to (7) or (9) of subdivision (a) of Section 226, then the civil penalty is $25 per pay period per employee if the employee could promptly and easily determine the information specified in subdivision (a) of Section 226. If the alleged violation is a violation of paragraph (8) of subdivision (a) of Section 226, the civil penalty is $25 for each aggrieved employee per pay period if the employee would not be confused or misled about the correct identity of their employer. The civil penalty is $50 for each aggrieved employee per pay period if the alleged violation resulted from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks the civil penalties described in Labor Code section 2699(f)(2)(A).

147. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code section 2699(f)(2) imposes a civil penalty of $100 per pay period, per employee, except for violations of Labor Code section 226(a), and $200 per pay period, per employee if either of the following are met: (a) an agency or court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful within the five years preceding the alleged violation, or (b) the court determines that the employer's conduct giving rise to the violation was malicious, fraudulent, or oppressive. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks the civil penalties described in Labor Code section 2699(f)(2).

148. Labor Code section 2699(k)(1) provides that an aggrieved employee may be awarded injunctive relief in a civil action. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks injunctive relief as provided by Labor Code section 2699(k)(1).

149. Labor Code section 2699(k)(1) provides that an employee who prevails in a civil action brought pursuant to the PAGA shall be entitled to an award of reasonable attorneys' fees and costs. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks attorneys' fees and costs as provided by Labor Code section 2699(k)(1).

150. Labor Code sections 218.5, 226(e)(1), 1194, 2802, and Code of Civil Procedure section

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1021.5, also permit the recovery of attorneys' fees and costs. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, seeks attorneys' fees and costs as permitted by Labor Code sections 218.5, 226(e)(1), 1194, 2802, and Code of Civil Procedure section 1021.5.

151. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, requests further relief as described in the below prayer.

PRAYER FOR RELIEF

On behalf of himself and the putative class, Plaintiff prays for judgment against Defendants and in favor of the Class as follows:

A. For the Court to determine that this action may be maintained as a class action with the named Plaintiff as class representative;

B. For the attorneys appearing on the above caption to be named as class counsel;

C. For restitution of all monies, wages, and benefits due to Plaintiff and the other class members;

D. For disgorged profits from Defendants' unlawful, unfair, and fraudulent business practices;

E. For all minimum, regular, and/or overtime wages owed pursuant to Labor Code sections 510, 1194, and 1197.1;

F. For all liquidated damages pursuant to Labor Code section 1194.2;

G. For premium wages pursuant to Labor Code section 226.7;

H. For unreimbursed business expenses pursuant to Labor Code section 2802;

I. For any and all statutory penalties available for the Labor Code violations alleged herein including, but not limited to, statutory penalties under Labor Code section 226(e);

J. For waiting time penalties pursuant to Labor Code section 203;

K. For civil penalties pursuant to Labor Code sections 210, 558, 1174.5, 1197.1, and 2699(f);

L. For reasonable attorneys' fees and litigation costs pursuant to Labor Code sections 218.5, 226, 1194, 2802, and Code of Civil Procedure section 1021.5;

M. For all interest accrued to date pursuant to Labor Code section 218.6;

N. For injunctive relief as provided by the Labor Code including, but not limited to, Labor Code section 226(h), and Business and Professions Code section 17200 et seq.;

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O. For appropriate equitable relief;

P. For appropriate declaratory relief; and

Q. For such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues triable to a jury.

Dated: August 15, 2025

GRAHAM**HOLLIS** APC

By: Allison E. Schubert

Vilmarie Cordero
Allison E. Schubert
Attorneys for Plaintiff Jose Jeovani Martinez

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EXHIBIT 1

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May 23, 2025

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
Attn: PAGA Administrator
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

CERTIFIED MAIL (RETURN RECEIPT)

Fastrip Food Stores, Inc.'s Agent for Service of Process
Lee Jamieson
3101 State Road
Bakersfield, CA 93308

Fastrip Food Stores, Inc.
3101 State Road
Bakersfield, CA 93308

Jaco Oil Company's Agent for Service of Process
TJ Jamieson
3101 State Road
Bakersfield, CA 93308

Jaco Oil Company
3101 State Road
Bakersfield, CA 93308

Re: Jose Jeovani Martinez's Wage and Hour Claims Against Fastrip Food Stores, Inc. and Jaco Oil Company

Dear California Labor and Workforce Development Agency, Fastrip Food Stores, Inc., and Jaco Oil Company:

Please be advised that Jose Jeovani Martinez ("Claimant") has retained our firm, GrahamHollis APC, to represent him for various claims against his employers, Fastrip Food Stores, Inc. ("Fastrip") and Jaco Oil Company ("Jaco") (collectively referred to as the "Companies").

Graham S.P. Hollis
Vilmarie Cordero*
Hali Anderson*
Nathan Reese*
Allison Schubert
Alex Kuner
Dawn M. Berry
Taylor M. Gee
Samara Bahu
Ommar Chavez
Monique R. Rodriguez
*Licensed to Practice in CA and WA

This letter shall serve as Claimant's written notice to the California Labor and Workforce Development Agency ("LWDA") and the Companies of the California Labor Code ("Labor Code") violations Claimant contends the Companies committed against him and other nonexempt employees in California. Claimant provides this notice, which includes the facts and theories to support his allegations, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code § 2698 et seq., "PAGA").

Pursuant to Labor Code § 2699(a), and by way of this written notice, Claimant seeks to represent himself and all other current and former nonexempt employees who performed work for the Companies in California during the relevant time period and who suffered at least one of the violations alleged herein ("Aggrieved Employees").

FACTUAL BACKGROUND

Jaco Oil Company was founded in 1967 and is headquartered in Bakersfield, California. Jaco is a privately held management firm that provides centralized support, like financial, Human Resource, and Information Technology services to affiliated entities. Jaco owns and operates approximately 100 diesel and gasoline service stations in California, many under the Fastrip brand. Jaco is the parent company of Fastrip.

Fastrip Food Stores, Inc. is a privately held convenience store chain headquartered in Bakersfield, California that operates through a hybrid model of company-owned and independently leased stores. The company operates over 50 locations across California and Arizona.

Claimant worked as a cashier from November 2023 to December 31, 2024. His primary job duties included tending to customer needs, preparing coffee, and providing janitorial services and general maintenance. Claimant worked full-time and was typically scheduled to work the night shift (or graveyard shift) from 11:00 p.m. – 7:00 a.m. Claimant was a non-exempt employee who earned $16.00 an hour, and was paid bi-weekly.

Claimant claims that the Companies failed to pay him for all hours worked while employed by the Companies. Specifically, the Companies had the pattern and practice of never keeping accurate records of the times Claimant started and ended his shifts. In fact, Claimant was told he did not need to record his start time or end time for the shift because he would *only* be paid for the hours he was scheduled to work. Every week he received a schedule with his assigned hours. Alma, the supervisor, was the one who prepared the schedule and gave it to him. Claimant routinely worked additional, unscheduled hours because the person who was scheduled to replace him did not show up on time for his/her shift or failed to show up at all. Claimant specifically remembers that he worked up to two consecutive shifts on more than one occasion. Nonetheless, the Companies only paid him for his 11:00 p.m. – 7:00 a.m. shift.

Moreover, Claimant has not received all of his wages earned and owed for the months of November and December 2024. For example, Claimant was only paid 36 hours for the entire month of December 2024. Claimant has requested on multiple occasions via phone and in person for payment of all the hours worked. Nonetheless, the Companies ignored all of his complaints, which left him with no other option but to quit on December 31, 2024.

Claimant alleges that as a result of inadequate staffing and the Companies practice of only staffing one to two employees per shift, he and other Aggrieved Employees were frequently denied a 30-minute off-duty, uninterrupted meal period before the start of their sixth hour of work. Although the Companies auto-deduct a 30-minute meal period each shift, Claimant could not take meal periods because he was the only employee on staff and had to watch the store and tend to customer needs. When Claimant asked his manager how he was expected to use the restroom during his shift, the manager laughed and responded that he would need to make it quick.

Similarly, Claimant contends that the Companies did not authorize and permit him and other Aggrieved Employees to take an off-duty, uninterrupted, 10-minute rest period for every four hours worked or major fraction thereof. As above, Claimant alleges that he was rarely able to take an off-duty rest period because no one was available to watch the store. Claimant complained on multiple occasions about the lack of off-duty breaks, but management responded that they were unable to provide such breaks.

Claimant alleges that the Companies failed to pay him and other Aggrieved Employees all earned minimum and overtime wages. Similarly, other Aggrieved Employees routinely worked off-the-clock because the Companies failed to institute a clock system or a timekeeping system that accurately recorded all of the hours suffered or permitted to work. Moreover, Claimant and other Aggrieved Employees were not compensated for the work performed during meal periods, time spent after scheduled shifts waiting to be relieved, and travel time between the Rosamond and Mojave locations when employees worked at both locations during the same shift, among others.

Claimant further alleges that the Companies failed to reimburse him and other Aggrieved Employees for necessary business expenses—including mileage incurred when they were required to use their personal vehicles to travel between the Rosamond and Mojave locations during the same shift.

Over the course of his employment, Claimant was provided with wage statements that failed to include the actual, regular, and overtime hours worked, the actual gross and net wages earned, or all applicable hourly rates in effect during each period and the corresponding number of hours worked at each hourly rate because the Companies failed to state total wages actually earned and total hours actually worked.

Due to the foregoing Labor Code violations, the Companies denied, and continues to deny its employees certain rights afforded to them under the Labor Code and IWC Wage Order No. 7-

2001. Claimant intends to pursue all available legal remedies on behalf of himself and other Aggrieved Employees.

FAILURE TO TIMELY PAY ALL MINIMUM, REGULAR, AND/OR OVERTIME WAGES

(Labor Code §§ 204, 210, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, and IWC Wage Order No. 7-2001, § 4)

Labor Code § 1197 states, "[t]he 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." Labor Code § 1197.1 provides that,

> [a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203...

Labor Code § 1198 states, "[t]he 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."

Labor Code § 510 states,

> [e]ight 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.

IWC Wage Order No. 7-2001, § 4 mandates the same requirements.

Labor Code § 204(a) states in pertinent part, "[a]ll wages…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." Furthermore, Labor Code § 204(b)(1) states, "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period."

Labor Code § 210 provides that, "every person who fails to pay the wages of an employee as provided in § … 204 … shall be subject to a penalty" of $100 for an initial violation and $200 plus 25% of the amount unlawfully withheld for a subsequent violation. The IWC Wage Order No. 7-2001, § 4 also states that "[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the renumeration is measured by time, piece, commission or otherwise."

Labor Code § 1194(a) states, "…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." Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

The Companies failed to timely pay Claimant and other Aggrieved Employees all minimum, regular, and overtime wages. The Companies maintained a policy and practice that failed to compensate employees for all of their hours worked or under the control of the Companies. For example, the Companies failed to accurately record all the hours worked by Claimant and the Aggrieved Employees and instead only paid them for the hours they were scheduled to work. Moreover, the Companies instituted an illegal auto-deduct system in which the Companies deducted 30-minutes every shift for off-duty meal breaks Claimant and other Aggrieved Employees were not allowed to take. Aggrieved Employees frequently performed uncompensated off-the-clock work, including time spent working past their scheduled shifts to watch the store until relieved, as well as travel time between store locations. As a result, Claimant and other employees were not compensated for all minimum and overtime wages earned. Claimant intends to pursue all available legal remedies on behalf of himself and other Aggrieved Employees.

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7, 512, 558, 1198, and IWC Wage Order No. 7-2001, § 11)

Labor Code § 512(a) provides:

> 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 pertinent part, § 11 of IWC Wage Order No. 7-2001 states:

> (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.

A meal period generally comports with the requirements of California law if the employee has at least 30-minutes uninterrupted and the employee is relieved of any and all duties and is free to leave the premises during such time. *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1036 (2012). California law further prohibits employers from “undermining [its] formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks.” *Id*. at 1040 [internal citations omitted].

Labor Code § 226.7(c) further provides:

> 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.

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Labor Code Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty as follows: "[f]or any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid. For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid."

As set forth above, the Companies failed to provide Claimant and other Aggrieved Employees with the opportunity to take uninterrupted, off-duty meal periods of at least 30 minutes before the start of their sixth hour of work. Claimant was frequently the only employee scheduled to work at the convenience store, and could not leave the store unattended. As a result, Claimant and other employees routinely worked through their meal periods. Claimant intends to pursue all available legal remedies on behalf of himself and other Aggrieved Employees.

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS

(Labor Code § 226.7 and IWC Wage Order No. 7-2001, § 12)

IWC Wage Order No. 7-2001, § 12 provides:

> (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 of 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.

An employer has not authorized or permitted lawful off-duty rest periods unless the employer relieves its employees of any and all work-related duties and relinquishes all control over how its employees spend their time during rest periods. *See Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 267, 269 (2016).

In pertinent part, Labor Code § 226.7 provides:

> (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 workday that the meal or rest or recovery period is not provided.

Claimant alleges that he and other nonexempt employees were consistently denied off-duty, uninterrupted rest periods, in violation of California law. Claimant was frequently the only employee scheduled to work at the convenience store, and due to customer demands, he could not leave the store unattended. As a result, Claimant and other employees were unable to take rest periods. Claimant intends to pursue all available legal remedies on behalf of himself and other Aggrieved Employees.

FAILURE TO REIMBURSE FOR BUSINESS EXPENSES

(Labor Code § 2802 and IWC Wage Order No. 7-2001, § 9)

Labor Code section 2802(a) provides in pertinent part, "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

Labor Code section 2802(b) states, "[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss." Accordingly, Claimant will request that he receive interest on the applicable amount.

IWC Wage Order No. 7-2001, § 9 states, "[f]or purposes of this section, the term 'necessary expenditures or losses' shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section." Consequently, Claimant will also request reimbursement of the attorney's fees incurred in pursuing this matter.

As set forth above, the Companies failed to reimburse Claimant and, on information and belief, other Aggrieved Employees all necessary business expenses including gas. Claimant intends to pursue all available legal remedies on behalf of himself and other Aggrieved Employees.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code § 226 and IWC Wage Order No. 7-2001, § 7)

Labor Code § 226(a) states in pertinent part:

> Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or his employees, either as detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee… (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or his social security number or an employee identification number, (8) the name and address of the legal entity that is the employer, … and (9) all applicable hourly rates in effect during each period and the corresponding number of hours worked at each hourly rate by the employee…

Labor Code § 226(e)(1) provides:

> An employee suffering injury as a result of knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand ($4,000), and is entitled to an award of costs and reasonable attorney's fees.

Labor Code § 226(h) further states, "an employee may also bring an action for injunctive relief to ensure compliance with this § and is entitled to an award of costs and reasonable attorneys' fees."

IWC Wage Order No. 7-2001, § 7(B) also provides that every employer shall semimonthly, or at the time of each payment of wages, furnish to each employee "an itemized wage statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee and the employee's social security number; and (4) the name of the employer…"

As set forth above, the Companies did not pay all wages owed to Claimant and other Aggrieved Employees, including all meal period and rest period premium wages. The Companies therefore failed to provide Claimant and other Aggrieved Employees with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements issued did not, among other things, state the correct amount of gross and net wages earned, all applicable hourly rates, and the corresponding number of hours worked at each hourly rate. Claimant intends to pursue all available legal remedies on behalf of himself and other Aggrieved Employees.

FAILURE TO PAY ALL WAGES OWED UPON SEPARATION OF EMPLOYMENT
(Labor Code §§ 201, 202, and 203)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

Labor Code § 202 provides, in pertinent part:

> 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 his intention to quit, in which case the employee is entitled to his or his wages at the time of quitting.

Labor Code § 203(a) further states:

> If an employer willfully fails to pay, without abatement or reduction, in accordance with §§ 201, 201.3, 201.5, 201.9, 202, and 205.5, any 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 therefore is commenced; but the wages shall not continue for more than 30 days.

Here, Claimant's last day of employment was December 31, 2024. To date, the Companies failed to pay Claimant all wages owed including time worked from November to December 2024. In addition, Claimant was not paid for missed meal and rest periods or for work he performed while clocked out. Claimant intends to pursue all available legal remedies on behalf of himself and other Aggrieved Employees.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 226, 1174, 1174.5, and IWC Wage Order No. 7-2001, § 7)

Labor Code § 1174(d) requires every person employing labor in California to:

> [k]eep, at a central location in the state of 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 is obliged under Labor Code § 226(b) to keep the information required by Labor Code § 226(a) and afford current or former employees the right to inspect or copy records pertaining to their employment.

IWC Wage Order No. 7-2001, § 7(A) also provides that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of $500 for an employer's failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of $100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Claimant alleges the Companies failed to keep accurate employment records, including records showing when employees begin and end each work period and the total daily hours worked. Claimant intends to pursue all available legal remedies on behalf of himself and other Aggrieved Employees.

CIVIL PENALTIES FOR VIOLATIONS OF THE LABOR CODE AND THE APPLICABLE IWC WAGE ORDER

(Labor Code §§ 210, 226.3, 226.7, 558, 558.1, 1174.5, 1197.1, and 2699(f))

Labor Code § 210 provides that any person who fails to pay wages as provided in § 204 shall be subject to a civil penalty of $100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation $200 for each failure to pay each employee, plus 25% of the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of $250 per employee per violation in an initial citation and $1,000 per employee for each violation in a subsequent citation.

Labor Code § 226.7 states that if an employer fails to provide a rest period the employer shall pay an employee one additional hour of pay at the employee's regular rate of compensation for each workday that a rest period is not provided.

Labor Code § 558 subjects an employer or any person acting on behalf of an employer who violates Labor Code §§ 500-558, or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty of $50 for each underpaid employee for each pay period for which the employee was underpaid for any initial violation, and $100 for each underpaid employee for each pay period for which the employee was underpaid for each subsequent violation. Labor Code § 558.1(a) states:

> Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, §§ 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

For violations of Labor Code § 1174 subdivisions (c) and (d), Labor Code § 1174.5 imposes a civil penalty of $500 for any willful violation.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

> (1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.

Labor Code § 2699(f)(2)(A) imposes a civil penalty of $100 per pay period, per employee for the initial violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 226.7, 510, 1174, 1194, 1197, 1198, 2802, and applicable IWC Wage Order. If the alleged violation results from an isolated, nonrecurring event that did not extend beyond the lesser of thirty consecutive days or four consecutive pay periods, the civil penalty is $50 for each aggrieved employee per pay period. Lab. Code § 2699(f)(2)(A)(ii).

Moreover, Labor Code § 2699(f)(2)(B) imposes a civil penalty of $200 per pay period, per aggrieved employee if either of the following are met: (1) within the five years preceding the alleged violation, the agency or any court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful; or (2) the court determines that the employer's conduct giving rise to the violation was malicious, fraudulent, or oppressive.

For violations of paragraphs (1) to (7), inclusive, or paragraph (9) of Labor Code § 226(a), Labor Code § 2699(f)(A)(i) imposes a civil penalty of $25 for each aggrieved employee per pay period if the employee can promptly and easily determine from the wage statement alone the accurate information specified by § 226(a).

Labor Code § 2699(f)(A)(i) also imposes a civil penalty of $25 per each aggrieved employee per pay period "if the employee would not be confused or misled about the correct identity of their employer or, if their employer is a farm labor contractor, the legal entity that secured the services of that employer."

For violations of Labor Code § 226(a) resulting from an employer's failure to provide employees with a wage deduction statement or failure to keep records required by this section, Labor Code § 226.3 imposes a civil penalty of $250 per employee per violation in an initial citation and $1,000 per employee for each violation in a subsequent citation.

As set forth above, the Companies violated the Labor Code and the applicable IWC Wage Order by failing to compensate Claimant and other Aggrieved Employees for all time worked, including minimum, regular, and/or overtime wages; failing to provide meal and rest periods; failing to pay premium wages for the Companies' failure to provide lawful meal and rest periods; failing to reimburse all business expenses; failing to pay all wages earned upon separation of employment; failing to issue accurate itemized wage statements; and failing to maintain accurate records as required under the Labor Code and IWC Wage Order No. 7-2001. As a result, the Companies are liable for civil penalties under the Labor Code and Claimant will pursue all available remedies including, but not limited to, those stated herein for the Companies' violations on behalf of himself and all other Aggrieved Employees to the extent allowed by law.

ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES, AND PENALTIES

(Labor Code §§ 210, 218.5, 218.6, 226, 558, and 2698 et seq.)

Labor Code §§ 210, 218.5, 218.6, 226, 558, and 2698 et seq., among others, give employees the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Pursuant to Labor Code § 2699(i), Claimant is entitled to collect 35-percent of any civil penalties assessed. Under Labor Code § 2699(g)(1), Claimant is entitled to an award of reasonable attorneys' fees and costs. Accordingly, the Companies are liable for these items. Claimant has already incurred actual damages, costs and attorneys' fees, and he will continue to incur such costs as a result of the Companies' unlawful actions. Claimant will pursue all available remedies against the Companies, including those provided for under PAGA, on behalf of himself and all other Aggrieved Employees to the extent permitted by California law for the violations described herein, and those that may be later discovered.

CONCLUSION

Based on the foregoing, the Companies have violated the Labor Code and IWC Wage Order No. 7-2001, thereby depriving Claimant and other Aggrieved Employees of the rights and protections afforded to them. Claimant has satisfied the prerequisites of PAGA to serve as a representative of all Aggrieved Employees, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein.

Accordingly, if the LWDA declines to intervene or act within time prescribed by PAGA, Claimant will elect to initiate a civil action, on behalf of himself and all Aggrieved Employees.

We invite the Companies and their attorneys to contact our office to discuss this matter, including whether the parties can reach an early resolution of the claims asserted.

Very truly yours,

Taylor M. Gee