

Assigned for all purposes to: Spring Street Courthouse, Judicial Officer: Maren Nelson

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

EFREN PALOMINO on behalf of himself and  
all others similarly situated;

Plaintiff,

v.

WINALL OIL CO., a California Corporation;  
ALLEN GIMINEZ, an individual; GARY  
GIMINEZ, an individual; and DOES 1 through  
20, inclusive,

Defendant.

Case No.: **23STCV04401**

**CLASS AND REPRESENTATIVE ACTION**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

- 1. FAILURE TO PROVIDE OFF-DUTY MEAL PERIODS (Labor Code §§ 226.7, 512, & 2810.3; Wage Order No. 7);**
- 2. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS (Labor Code §§ 226.7 & 2810.3; Wage Order No. 7);**
- 3. FAILURE TO FURNISH ADEQUATE WAGE STATEMENTS (Labor Code §§ 226 & 2810.3; Wage Order No. 7);**
- 4. UNLAWFUL BUSINESS PRACTICES (Business & Professions Code §§ 17200 *et seq.*); and**
- 5. VIOLATIONS OF THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (Labor Code §§ 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL**

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## I. INTRODUCTION

1. This is a class action under Code of Civil Procedure section 382 and a representative action under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698, *et seq.*, brought by Plaintiff EFREN PALOMINO (“Plaintiff”).

2. Plaintiff seeks to represent a class of current and former gas-station attendants who were employed by defendants WINALL OIL CO. (“Winall Oil”), ALLEN GIMINEZ (“A. Giminez”), and GARY GIMINEZ (“G. Giminez”) (collectively, “Defendants”) from October 28, 2018 to the present (“Class Members”).

3. Defendant Winall Oil is in the gas stations business. Defendants A. Giminez and G. Giminez serve as the Chief Executive Officer and Chief Financial Officer, respectively, of Defendant Winall Oil. Defendants own and operate more than a dozen gas stations in Southern California, which they franchise from several major oil companies.

4. Defendants failed to provide Plaintiff and Class Members with off-duty meal and rest periods or meal- and rest-period premiums, in violation of California wage and hour law, throughout Plaintiff’s and Class Members’ employment. Defendants have sought to avoid various duties and obligations owed to employees under the California Labor Code, Industrial Welfare Commission Wage Order No. 7 (“Wage Order No. 7”), including but not limited to failure to: (1) Provide meal periods; (2) Authorize and permit rest periods; and (3) Furnish adequate wage statements.

5. Plaintiff brings claims on behalf of Class Members for missed meal and rest periods, statutory penalties, interest, and attorneys’ fees and costs under Labor Code sections 218.5 and 226(e), and Code of Civil Procedure section 1021.5. Plaintiff, on behalf of himself and Class Members, also seeks equitable and injunctive relief for these violations pursuant to Business and Professions Code sections 17200-17208 (referred to herein as the “UCL”).

6. Plaintiff also brings a claim seeking civil penalties under the Private Attorneys General Act, Labor Code sections 2698 *et seq.* (“PAGA”).

1 **II. JURISDICTION**

2 7. Venue is proper in this judicial district, pursuant to Code of Civil Procedure section  
3 395(a). Defendants employ or has employed Plaintiff and Class Members throughout California,  
4 including in the city of Los Angeles, which is located within the County of Los Angeles,  
5 California. The unlawful acts alleged herein have occurred in and have a direct effect on Plaintiff  
6 and those similarly situated within the State of California and the County of Los Angeles.

7 8. This Court has jurisdiction over this class action pursuant to Article 6, section 10 of  
8 the California Constitution and California Code of Civil Procedure section 410.10.

9 **III. PARTIES**

10 **A. PLAINTIFF**

11 9. Plaintiff and Class Members are gas-station attendants who are or were employed  
12 by Defendants in California at some time during the period beginning October 28, 2018 to the  
13 present (the "Class Period").

14 10. Plaintiff is a resident of California and worked for Defendants as gas-station  
15 attendants staffing Defendants' gas stations during the relevant time periods herein.

16 11. Plaintiff is informed and believes, and thereon alleges that at all relevant times  
17 herein, Defendants were and are subject to the Labor Code and Wage Order 7 as employers, whose  
18 employees were and are engaged throughout counties throughout the State of California, including  
19 Los Angeles County.

20 **B. DEFENDANTS**

21 12. Winall Oil is a California Corporation with principal place of business in Signal  
22 Hill, California and conducts business throughout the Southern California, including out of the City  
23 of Los Angeles, located in the County of Los Angeles. At all times relevant herein Defendant  
24 Winall Oil was Plaintiff's and other aggrieved employees' employer covered by the Labor Code,  
25 Wage Order 7.

26 13. A. Giminez is, on information and belief, an adult resident of Signal Hill, California.  
27 Defendant A. Giminez was, during the relevant time period, Chief Executive Officer and Director  
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1 on Defendant Winall Oil's statement of information filed with the California Secretary of State. At  
2 all times relevant herein Defendant A. Giminez was Plaintiff's and Class Members' employer  
3 covered by the Labor Code, Wage Order 7. Plaintiff is informed and believes that Defendant A.  
4 Giminez is a joint employer, working with Winall Oil. Defendant A. Giminez controls and is  
5 intimately involved in the day-to-day operations of Defendant Winall Oil and both determined and  
6 instituted the unlawful wage and hour violations alleged herein. Defendant A. Giminez has  
7 violated or caused to be violated the provisions of Wage Order 7 regulating hours and days of work  
8 as well as Labor Code sections 226 and 226.7. As such, he is personally liable for the Wage Order  
9 and Labor Code violations cited above pursuant to Labor Code section 558.1.

10 14. G. Giminez is, on information and belief, an adult resident of Signal Hill, California.  
11 Defendant A. Giminez was, during the relevant time period, Secretary and Chief Financial Officer  
12 on Defendant Winall Oil's statement of information filed with the California Secretary of State. At  
13 all times relevant herein Defendant G. Giminez was Plaintiff's and Class Members' employer  
14 covered by the Labor Code, Wage Order 7. Plaintiff is informed and believes that Defendant G.  
15 Giminez is a joint employer, working with Winall Oil. Defendant G. Giminez controls and is  
16 intimately involved in the day-to-day operations of Defendant Winall Oil and both determined and  
17 instituted the unlawful wage and hour violations alleged herein. Defendant G. Giminez has  
18 violated or caused to be violated the provisions of Wage Order 7 regulating hours and days of work  
19 as well as Labor Code sections 226 and 226.7. As such, he is personally liable for the Wage Order  
20 and Labor Code violations cited above pursuant to Labor Code section 558.1

21 15. The true names and capacities, whether individual, corporate, associate, or  
22 otherwise, of Defendants sued herein as DOES 1 through 20, inclusive, are currently unknown to  
23 Plaintiff, who therefore sues Defendant by such fictitious names under Code of Civil Procedure  
24 section 474. Plaintiff is informed and believes, and based thereon alleges, that each of the  
25 defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts  
26 referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true  
27 names and capacities of the defendants designated hereinafter as DOES when such identities  
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1 become known. Plaintiff is informed and believes, and based thereon alleges, that each of the  
2 defendants designated herein as DOE is legally responsible in some manner for the events and  
3 happenings referred to herein and caused injury and damage proximately thereby to Plaintiff as  
4 alleged herein. Each reference in this Complaint to “Defendant,” or a specifically named defendant,  
5 refers also to all defendants sued under fictitious names.

6 16. Plaintiff is informed and believes, and based thereon alleges, that at all times herein  
7 mentioned each of the defendants are and were the agent, employee and/or servant of each of the  
8 remaining defendants, and in doing the things hereinafter alleged was acting within the scope of  
9 such agency, employment, and servitude, with the knowledge and consent of each of the  
10 defendants. Whenever this Complaint makes reference to a defendant, such allegations shall be  
11 deemed to mean the acts of all defendants acting individually, jointly and/or severally.

#### 12 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

13 17. On October 28, 2022, Plaintiff gave electronic and written notice by certified mail  
14 of Winall Oil’s violations of various provisions of the California Labor Code as alleged in this  
15 complaint to the Labor and Workforce Development Agency (“LWDA”) and Winall Oil.

16 18. The LWDA has not provided notice pursuant to Labor Code section  
17 2699.3(a)(2)(A), and 65 calendar days have passed since the postmark date of either of Plaintiff’s  
18 notices. Therefore, Plaintiff is entitled to commence a civil action pursuant to Labor Code section  
19 2699.

#### 20 **V. STATEMENT OF FACTS**

21 19. Defendants own and operate more than a dozen gas stations in Southern California.  
22 Defendants employ gas-station attendants to staff its gas stations and carry on their operations.  
23 Plaintiff and Class Members worked as gas-station attendants staffing Defendants’ gas stations in  
24 Los Angeles County and Southern California.

25 20. Plaintiff is informed and believes and thereon alleges that, through common  
26 practices, policies and/or schemes, Defendants failed to adequately staff their gas stations. As a  
27 result of these practices, policies and/or schemes, Plaintiff and Class Members were unable to take  
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1 off-duty meal and rest periods, and Defendants failed to compensate Plaintiff and Class Members  
2 for missed meal and rest periods in order to systematically deprive them of the benefits and  
3 protections applicable to employees under California law.

4 21. Plaintiff is informed and believes and thereon alleges that, throughout the relevant  
5 time period of this action, Defendants have employed at least two dozen (24) Class Members. At  
6 all times relevant hereto, the California Labor Code and Wage Order No. 7 have applied to Plaintiff  
7 and to Class Members.

8 22. Plaintiff's and Class Members' primary job duties involved accepting cash  
9 payments from customers, attending the pumps, performing paperwork related to shift management  
10 and accounting, cleaning the booth and the station.

11 23. Defendants controlled all work details, including Plaintiff's and Class Members'  
12 respective schedules and work locations. Based on the foregoing and other relevant factors,  
13 Plaintiff and other Class Members were employees of Defendants.

14 24. By failing to adequately staff its gas stations, Defendants required Plaintiff and  
15 Class Members to work continuously throughout the entirety of their shifts without providing  
16 Plaintiff and Class Members with proper off-duty meal periods. Plaintiff and Class Members  
17 regularly worked more than five (5) hours per day without receiving an adequate off-duty meal  
18 period of at least thirty (30) minutes during which they were relieved of all duties. Defendants'  
19 inadequate staffing also forced Plaintiff and other Class Members to work without a second meal  
20 period of not less than thirty (30) minutes during which they are relieved of all duties when they  
21 worked more than ten (10) hours per day. Defendants failed to pay one additional hour of pay at  
22 Plaintiff's and Class Members' respective regular rates of compensation for each workday  
23 Defendants did not provide them with an adequate meal period.

24 25. By failing to adequately staff its gas stations, Defendants also required Plaintiff and  
25 Class Members to work continuously throughout the entirety of their shifts without authorizing or  
26 providing paid rest periods. Plaintiff and Class Members regularly worked more than three-and-  
27 one-half (3½) hours without being authorized or permitted to take a paid ten (10) minute rest  
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1 period. Defendants failed to pay one additional hour of pay at Plaintiff's and Class Members'  
2 respective regular rates of compensation for each workday that they were not provided a rest  
3 period.

4 26. Defendants also failed to provide Plaintiff and Class Members with adequate  
5 itemized wage statements. For example, the wage statements provided by Defendants to Plaintiff  
6 and Class Members do not adequately include all hours worked or meal- and rest-period premium  
7 wages earned.

## 8 VI. CLASS ACTION ALLEGATIONS

9 27. Except as to the PAGA claim set forth below, Plaintiff brings this lawsuit as a class  
10 action pursuant to Code of Civil Procedure section 382 on behalf of himself and all similarly  
11 situated employees.

12 28. The class that Plaintiff seeks to represent are defined as:

13 **The Class:** Current and former gas-station attendants who were employed by Defendants  
14 throughout California at any time between October 28, 2018 through the present ("Class" or  
"Class Members").

15 29. The claims herein have been brought and may properly be maintained as a class  
16 action under Code of Civil Procedure section 382 because there is a well-defined community of  
17 interest among Class Members with respect to the claims asserted herein and the Class is easily  
18 ascertainable:

19 a. **Ascertainability and Numerosity:** The potential members of the Class as defined  
20 herein are so numerous that joinder would be impracticable. Plaintiff is informed and  
21 believes, and based thereon alleges, that Defendants have employed at least two dozen  
22 (24) Class Members during the Class Period. The names and addresses of the Class  
23 Members are available from Defendants. Notice can be provided to the Class  
24 Members via first class mail using techniques and a form of notice similar to those  
25 customarily used in class action lawsuits of this nature.

26 b. **Commonality:** There are questions of law and fact common to Plaintiff and the Class  
27 that predominate over any questions affecting only individual members of the Class.  
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1 These common questions of law and fact include, without limitation:

- 2 i. Whether Defendants have violated Labor Code section 226.7 and Wage Order  
3 No. 7 by failing to authorize and permit Class Members paid rest periods;
- 4 ii. Whether Defendants have violated Labor Code sections 226.7 and 512, and  
5 Wage Order No. 7 by failing to provide Class Members meal periods;
- 6 iii. Whether Defendants have violated Labor Code section 226 and Wage Order  
7 No. 7 by failing to issue Class Members with adequate and legally compliant  
8 wage statements;
- 9 iv. Whether the violations set forth in subsections i-iii immediately above  
10 constitute an unlawful, unfair, and/or fraudulent business practice under  
11 Business and Professions Code Section 17200, *et seq.*;
- 12 v. What relief is necessary to remedy Defendant's unfair and unlawful conduct as  
13 herein alleged;
- 14 vi. Whether Defendants A. Giminez and G. Giminez should share with Defendant  
15 Winall Oil all civil legal responsibility for the violations set forth in subsections  
16 i-iii above under Labor Code section 558.1; and
- 17 vii. Other questions of law and fact.
- 18 c. Typicality: Plaintiff's claims are typical of the claims of the Class: Plaintiff is and  
19 was employed by Defendants as a gas station attendant staffing Defendants' gas  
20 stations during the Class Period in California. Plaintiff and all members of the Class  
21 have sustained injuries-in-fact due to their damages arising out of and caused by  
22 Defendants' common course of conduct in violation of law, as alleged herein.
- 23 d. Adequacy of Representation: Plaintiff is a member of the Class that he seeks to  
24 represent, and will fairly and adequately represent and protect the interests of Class.  
25 Counsel representing Plaintiff is competent and experienced in litigating wage and  
26 hour class actions.
- 27 e. Superiority of Class Action: A class action is superior to other available means for  
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1 the fair and efficient adjudication of this controversy. Individual joinder of all Class  
2 Members is not practicable, and questions of law and fact common to the Class and  
3 Subclasses predominate over any questions affecting only individual members of the  
4 Class. Class Members have suffered injury and are entitled to recover by reason of  
5 Defendants' illegal policies and/or practices as alleged herein. Class action treatment  
6 will allow those similarly situated persons to litigate their claims in the manner that is  
7 most efficient and economical for the parties and the judicial system. Further, the  
8 prosecution of separate actions against Defendants by individual Class Members  
9 would create a risk of inconsistent or varying adjudications that would establish  
10 incompatible standards of conduct for Defendants.

## 11 **VII. CAUSES OF ACTION**

### 12 **FIRST CAUSE OF ACTION** 13 **FAILURE TO PROVIDE MEAL PERIODS** 14 **(Labor Code §§ 226.7, 512; Wage Order No. 7)** **(on behalf of Plaintiff and all members of the Putative Class)**

15 30. The allegations of each of the preceding paragraphs are realleged and incorporated  
16 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of himself and the  
17 above-described Class of similarly situated gas-station attendants who were employed by  
18 Defendants throughout California.

19 31. Plaintiff and Class Members have regularly worked in excess of five (5) hours per  
20 day without being permitted to take a thirty (30) minute meal period as required by Labor Code  
21 sections 226.7 and 512 and Wage Order No. 7.

22 32. Plaintiff and Class Members have regularly worked in excess of ten (10) hours a day  
23 without being permitted to take a second thirty (30) minute meal period as required by Labor Code  
24 sections 226.7 and 512 and Wage Order No. 7.

25 33. Pursuant to Labor Code section 226.7(c) and Wage Order No. 7, Defendants are  
26 liable for one hour of additional pay at Plaintiff's and Class Members' respective regular rate of  
27 pay for each workday Defendants failed to provide meal periods to Plaintiff and Class Members.  
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34. By violating Labor Code section 226.7 and Wage Order No. 7, Defendants are also liable for interest under Labor Code section 218.6, reasonable attorneys' fees and costs under Labor Code section 218.5.

35. On information and belief, Defendants A. Giminez and G. Giminez are and were, at all relevant times, owners, directors, officers, and/or managing agents of Defendant Winall Oil and violated or caused to be violated the provisions regulating minimum wages or hours and days of work in Wage Order 7 and Labor Code § 226.7. Therefore, Defendants A. Giminez and G. Giminez are individually liable for these violations.

36. Plaintiff, on behalf of himself and the Class, requests restitution of unpaid meal period premiums and other relief as described below.

**SECOND CAUSE OF ACTION**  
**FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**  
**(Labor Code § 226.7; Wage Order No. 7)**  
**(on behalf of Plaintiff and all members of the Putative Class)**

37. The allegations of each of the preceding paragraphs are realleged and incorporated herein by reference, and Plaintiff alleges as follows a cause of action on behalf of himself and the above-described Class of similarly situated gas-station attendants who were employed by Defendants throughout California.

38. Plaintiff and Class Members have regularly worked in excess of three and one-half (3½) hours a day without being permitted to take at least a ten (10) minute paid rest period for every three and one-half (3½) hours worked, or major fraction thereof, as required by Wage Order No. 7, and Labor Code section 226.7.

39. Accordingly, Defendants are liable to Plaintiff and Class Members for one hour of additional pay at the regular rate of compensation for each workday a rest period violation occurred, pursuant to Labor Code section 226.7(c) and Wage Order No. 7.

40. On information and belief, Defendants A. Giminez and G. Giminez are and were, at all relevant times, owners, directors, officers, and/or managing agents of Defendant Winall Oil and violated or caused to be violated the provisions regulating minimum wages or hours and days of

1 work in Wage Order 7 and Labor Code § 226.7. Therefore, Defendants A. Giminez and G.  
2 Giminez are individually liable for these violations.

3 41. Plaintiff, on behalf of himself and the Class, requests restitution of unpaid rest  
4 period premiums and other relief as described below.

5 **THIRD CAUSE OF ACTION**  
6 **FAILURE TO FURNISH ADEQUATE WAGE STATEMENTS**  
7 **(Labor Code § 226; Wage Order No. 7)**  
8 **(on behalf of Plaintiff and all members of the Putative Class)**

9 42. The allegations of each of the preceding paragraphs are realleged and incorporated  
10 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of himself and the  
11 above-described Class of similarly situated gas-station attendants who were employed by  
12 Defendants throughout the Class Period.

13 43. Labor Code sections 226(a), 226(a)(2), and Wage Order No. 7 section 7 require  
14 employers, semi-monthly or at the time of payment, to furnish employees a statement showing  
15 gross and net wages earned and total hours worked.

16 44. An employee suffering injury as the result of a knowing and intentional failure of an  
17 employer to comply with Labor Code section 226(a) may recover the greater of all actual damages  
18 or fifty dollars (\$50.00) for the initial pay period in which a violation occurs and one hundred  
19 dollars (\$100.00) for each violation in a subsequent pay period, not to exceed the aggregate penalty  
20 of four thousand dollars (\$4,000.00) and is entitled to an award of costs and reasonable attorney's  
21 fees pursuant to Labor Code section 226(e)(1).

22 45. Defendants knowingly and intentionally failed to furnish Plaintiff and Class  
23 Members with legally compliant wage statements in accordance with Labor Code sections 226, and  
24 Wage Order No. 7. Defendants failed to furnish Class Members with adequate wage statements  
25 showing gross and net wages earned and total hours worked.

26 46. On information and belief, Defendants A. Giminez and G. Giminez are and were, at  
27 all relevant times, owners, directors, officers, and/or managing agents of Defendant Winall Oil and  
28 violated or caused to be violated the provisions regulating minimum wages or hours and days of

1 work in Wage Order 7 and Labor Code § 226. Therefore, Defendants A. Giminez and G. Giminez  
2 are individually liable for these violations.

3 47. Plaintiff, on behalf of himself and the Class, requests restitution of unpaid meal  
4 period premiums and other relief as described below.

5 **FOURTH CAUSE OF ACTION**  
6 **UNFAIR COMPETITION AND UNFAIR BUSINESS PRACTICES**  
7 **(Business & Professions Code §§ 17200 *et seq.*)**  
8 **(on behalf of Plaintiff and all members of the Putative Class)**

9 48. The allegations of each of the preceding paragraphs are realleged and incorporated  
10 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of himself and the  
11 above-described Class of similarly situated gas-station attendants who were employed by  
12 Defendants throughout California.

13 49. Defendants' failure to pay legally required compensation, authorize and permit meal  
14 and rest periods, provide adequate wage statements, as alleged above, constitute unlawful and/or  
15 unfair activities prohibited by Business and Professions Code section 17200. Plaintiff reserves the  
16 right to identify additional unfair and unlawful practices by Defendant as further investigation and  
17 discovery warrants.

18 50. Moreover, Business and Professions Code section 17203 provides that the Court  
19 may restore to an aggrieved party any money or property acquired by means of unlawful and unfair  
20 business practices. Plaintiff seeks a court order requiring an audit and accounting of the payroll  
21 records to determine the amount of restitution of all unpaid wages owed to himself and Class  
22 Members, as well as a determination of the amount of funds to be paid to current and former  
23 employees that can be identified and located pursuant to a court order and supervision.

24 51. Plaintiff and all Class Members are persons who have suffered injury in fact as a  
25 result of Defendant's unfair competition within the meaning of Business and Professions Code  
26 section 17204, and who comply with the requirements of Code of Civil Procedure section 382, as  
27 set forth above, and therefore have standing to bring this claim for injunctive relief, restitution, and  
28 other appropriate equitable relief.

1           52. As a result of its unlawful and/or unfair acts, Defendant have reaped and continue to  
2 reap unfair benefits and illegal profits at the expense of Plaintiff and proposed Class Members.  
3 Defendants should be enjoined from this activity and made to restore to Plaintiff and proposed  
4 Class Members their wrongfully withheld wages, interest thereon, and related statutory penalties,  
5 pursuant to Business and Professions Code sections 17202 and 17203.

6           53. Private enforcement of these rights is necessary, as no other agency has raised a  
7 claim to protect these workers. There is a financial burden incurred in pursuing this action that  
8 would be unjust to place upon Plaintiff, as the burden of enforcing workforce-wide rights is  
9 disproportionately greater than that of enforcing only Plaintiff's individual claims. Additionally,  
10 Plaintiff is a low-income worker who cannot afford to spend part of his wages on enforcing others'  
11 wage rights. Therefore, it would be against the interests of justice to force payment of attorneys'  
12 fees from Plaintiff's recovery in this action. Accordingly, attorneys' fees are appropriate and  
13 sought pursuant to the Code of Civil Procedure section 1021.5.

14           54. Plaintiff, on behalf of himself and the Class, requests restitution of unpaid wage  
15 premiums, injunctive relief and other relief as described below.

16                                   **FIFTH CAUSE OF ACTION**  
17                                   **PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**  
18                                   **(Labor Code § 2698 *et seq.*)**  
                                      **(on behalf of Plaintiff and all similarly situated aggrieved employees)**

19           55. The allegations of each of the preceding paragraphs are realleged and incorporated  
20 herein by reference. Plaintiff allege as follows a representative cause of action on behalf of himself  
21 and all other aggrieved employees.

22           56. Labor Code section 2699(f) provides, in pertinent part: "For all provisions of this  
23 code except those for which a civil penalty is specifically provided, there is established a civil  
24 penalty for a violation of these provisions, as follows: . . . If, at the time of the alleged violation, the  
25 person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each  
26 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each  
27 aggrieved employee per pay period for each subsequent violation."  
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1           57. Labor Code section 2699(g)(1) provides, in pertinent part: [A]n aggrieved employee  
2 may recover the civil penalty described in subdivision (f) in a civil action . . . filed on behalf of  
3 himself or herself and other current or former employees against whom one or more of the alleged  
4 violations was committed. Any employee who prevails in any action shall be entitled to an award  
5 of reasonable attorney's fees and costs.

6           58. Plaintiff is an aggrieved employee as defined by Labor Code section 2699(a).

7           59. Plaintiff's cause of action under Labor Code section 2698, *et seq.* is based on the  
8 following allegations:

- 9           a. Violations of Labor Code section 558 for failing to pay wages due, including those for  
10 missed meal periods as required by Labor Code sections 226.7 and 512. Specifically,  
11 Defendant does not pay one additional hour of pay to Plaintiff and other aggrieved  
12 employees at their regular rate of pay for a missed meal period.
- 13           b. Violations of Labor Code section 558 for failing to pay wages due, including those for  
14 missed rest periods as required by Labor Code section 226.7. Specifically, Defendant  
15 does not pay one additional hour of pay to Plaintiff and aggrieved employees at their  
16 regular rate of compensation for each missed rest period.
- 17           c. Violations of Labor Code section 226, subdivision (a) for failing to provide Plaintiff  
18 and aggrieved employees with adequate itemized wage statements that included,  
19 among other things, meal- and rest-period premium wages equal to one-hour's wages  
20 for each shift in which a meal- or rest-period was not provided.
- 21           d. Violations of Labor Code sections 201 through 203, requiring the timely payment of  
22 wages. Defendant has not timely paid those aggrieved employees who are no longer  
23 employed with Defendant all wages owed and due at the time of termination of their  
24 employment.
- 25           e. Violations of Labor Code sections 204 and 210, based on Defendant's failure to pay  
26 Plaintiff and other aggrieved employees all wages due on their regular paydays.
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60. As a direct and proximate result of Defendant's unlawful practices and policies, Plaintiff and other aggrieved employees have suffered and continue to suffer monetary losses.

61. Plaintiff, on behalf of himself and all other aggrieved employees, requests civil penalties against Defendant Winall Oil for violations of the Labor Code, as provided under Labor Code section 2699(f), plus reasonable attorneys' fees and costs, as provided under Labor Code section 2699(g)(1), in amounts to be proven at trial.

WHEREFORE, Plaintiff, on behalf of himself and all other aggrieved employees, prays for judgment against Defendant Winall Oil as set forth below.

## VIII. PRAYER FOR RELIEF

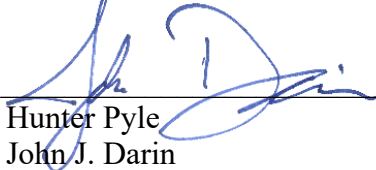
WHEREFORE, Plaintiff, on behalf of himself and the above-described Class, requests relief as follows:

- a. Certification of the above-described Class as a class action, pursuant to Code of Civil Procedure section 382;
- b. Certification of the above-described Class as a representative class under Business and Professions Code section 17200;
- c. Provision of Class Notice to all Class Members who worked for Defendant during the Class Period;
- d. A declaratory judgment that Defendants have knowingly and intentionally violated the Business and Professions Code sections 17200-17208, by the conduct set forth above;
- e. A declaratory judgment that Defendants' violations as described above were willful;
- f. An equitable accounting to identify, locate, and restore to all Class Members the compensation and interest that are due;
- g. An award to Plaintiff and Class Members of meal and rest period premiums pursuant to Labor Code section 226.7 for failure to provide meal and rest periods;
- h. An award of penalties pursuant to Labor Code section 226 to Plaintiff and Class Members for failing to provide lawful itemized wage statements;
- i. An award of civil penalties under Labor Code section 2698, *et seq.*

- 1 j. An order requiring Defendants to pay restitution of all amounts owed to Plaintiff and  
2 Class Members for Defendants' failure to pay meal and rest period premiums, and  
3 interest thereon, in an amount according to proof, pursuant to Business & Professions  
4 Code section 17203;
- 5 k. An award to Plaintiff and Class Members of reasonable attorneys' fees and costs,  
6 pursuant to Code of Civil Procedure section 1021.5 and Labor Code sections 218.5,  
7 226(e), and 2699, and/or other applicable law;
- 8 l. An award to Plaintiff and Class Members of such other and further relief as this Court  
9 deems just and proper.

10  
11 DATED: February 27, 2023

HUNTER PYLE LAW

12  
13 By: 

Hunter Pyle  
John J. Darin

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15 *Attorneys for Plaintiff, the Putative Class,*  
16 *and all other similarly situated aggrieved employees*  
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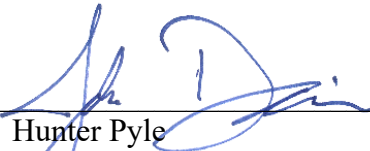
1 **DEMAND FOR JURY TRIAL**

2 Plaintiff, on behalf of himself and the Putative Class, hereby demands a jury trial in this  
3 matter for all claims so triable.  
4

5 DATED: February 27, 2023

HUNTER PYLE LAW

6  
7 By:

  
8 Hunter Pyle  
John J. Darin

9 *Attorneys for Plaintiff, the Putative Class,*  
10 *and all other similarly situated aggrieved employees*  
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