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County of Monterey
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SIMON EDEZA CAMPANA

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

SIMON EDEZA CAMPANA,

Plaintiff,

v.

VISTA VERDE LABOR, INC.; and DOES 1
through 50, inclusive,

Defendants.

Case No. 23CV000638

**COMPLAINT FOR DAMAGES,
PENALTIES AND FOR INJUNCTIVE
RELIEF**

DEMAND FOR JURY

Plaintiff SIMON EDEZA CAMPANA, who complains and alleges against the above-captioned Defendants as follows:

1. Plaintiff SIMON EDEZA CAMPANA ("Plaintiff") is a competent adult who is, and at all times mentioned in this complaint has been, a resident of County of Monterey, California. Plaintiff was employed by Defendants from approximately January 2017, through approximately February 2022, pursuant to an unwritten contract, some of the terms of which were the product of an oral agreement, with other terms implied from or incorporated from written materials and policies maintained by Defendants and from the conduct of the parties. The terms of this contract included working as a non-exempt employee, and at all times as an employee not exempted from the California Labor Code. Plaintiff is, and at all relevant times was, an individual as defined in Business and Professions Code §§ 17201 and 17204.

2. Defendant VISTA VERDE LABOR, INC. ("VISTA") is, and at all times mentioned in this complaint has been, an unknown entity doing business in the State of

1 California. Plaintiff is informed and believes and thereon alleges that VISTA is authorized to
2 and does conduct business throughout the State of California, has purposefully availed itself of
3 the privileges and benefits of doing business in the State of California.

4 3. Plaintiff is ignorant of the true names, identities, capacities and relationships of
5 the Defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these
6 Defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges,
7 that each of these fictitiously named Defendants are responsible in some manner for the
8 occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately
9 caused by DOES 1 through 50. Plaintiff will amend this Complaint to allege the true names
10 and capacities of said DOE Defendants when such information is ascertained. Each reference
11 to "Defendants," and each reference to any particular Defendant herein, shall be construed to
12 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a
13 "DOE" Defendant, and each of them.

14 4. Plaintiff is informed and believes, and thereon alleges, that each of the
15 Defendants herein was at all times relevant to this action the agent, employee, representative,
16 partner, and/or joint venturer of the remaining Defendants, and each of them, and that each of
17 the Defendants herein was at all times acting within the course and scope of that relationship.
18 Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants
19 herein consented to, ratified, and/or authorized the acts of each of the remaining Defendants
20 herein. The conduct of each of the Defendants was at all times herein in accordance with and
21 represents the official policy of Defendants. Additionally, at all times herein mentioned,
22 Defendants, and each of them, aided and abetted the acts and omissions of each and all of the
23 other Defendants, which proximately caused the damages herein alleged. Plaintiff is further
24 informed and believes, and thereon alleges, that all of the Defendants jointly employed the
25 Plaintiff herein and/or carried out a joint scheme, business plan and/or uniform policy, and the
26 acts and omissions of each Defendant are legally attributable to the other Defendants such that
27 they are deemed a single integrated enterprise and agents of one another so that all Defendants
28 are each jointly and severally liable for the acts and omissions hereinafter alleged.

1 5. Defendants VISTA and DOES 1 through 50 (collectively referred to herein as
2 “Defendants”) are, and at all times herein were, “persons” as defined in California Business
3 and Professions Code § 17201.

4 6. At all times herein, Defendants directly or indirectly, or through an agent or
5 representative, exercised control over the wages, hours and/or working conditions of the
6 Plaintiff, and directly or indirectly or through an agent or other person engaged, suffered, or
7 permitted Plaintiff to work.

8 **JURISDICTION AND VENUE**

9 7. This Court has jurisdiction over this action pursuant to Article VI, section 10 of
10 the California Constitution. Plaintiff brings this Complaint for violations of California law
11 occurring in the County of Monterey, including without limitation violations of the California
12 Labor Code, Business and Professions Code, Civil Code and common law, and the amount in
13 controversy exceeds the minimum jurisdictional amount of the Superior Court. Based on
14 information and belief, Defendants have intentionally availed themselves of the benefits and
15 privileges available within this State, economic or otherwise, so as to render the exercise of
16 jurisdiction over them by the courts of the State of California consistent with traditional
17 notations of fair play and substantial justice. Accordingly, this Court has jurisdiction over the
18 parties and claims in this matter.

19 8. Pursuant to Code of Civil Procedure § 395(a), venue is proper in this judicial
20 district because Defendants now, and all times relevant herein, reside and/or transact business
21 in the County of Monterey. The conduct alleged herein and the damages resulting therefrom
22 occurred in the County of Monterey, and at all times herein Defendants maintained their
23 principal place of business in the County of Monterey, California.

24 **ADMINISTRATIVE PROCEEDINGS**

25 9. Pursuant to California Labor Code § 2699.3, Plaintiff gave written notice on
26 October 19, 2022, by electronic filing with the Labor and Workforce Development Agency,
27 and by certified mail to Defendant VISTA of factual and legal basis for the labor law
28 violations alleged in this Complaint.

1 10. Pursuant to California Labor Code § 2699.3, Plaintiff seeks all applicable
2 penalties for violations which the Labor and Workforce Development Agency has failed or
3 elected not to investigate and/or failed or elected not to issue a citation. Plaintiff has
4 exhausted all administrative remedies required by the Labor and Workforce Development
5 Agency as a prerequisite to filing this action.

6 **GENERAL ALLEGATIONS**

7 11. Defendants now, and at all times did, own, operate and control a company that
8 employs persons within the meaning of all applicable wage orders, including, but not limited
9 to, IWC Wage Order No. 14-2001 (California Code of Regulations, title 8, section 11140)
10 (“the Wage Order”).

11 12. At all times relevant herein, Plaintiff worked for Defendants without the
12 provision of being compensated for all hours worked, without being paid overtime premium
13 wages for all overtime hours worked, without being paid all wages on time, working without
14 meal or rest breaks as required by law, without being compensated for missed meal and break
15 breaks, without being paid the full payment of wages owed at the end of Plaintiff’s
16 employment, and without having been provided with complete and accurate wage statements
17 as required by law.

18 13. At all times relevant herein, Defendants maintained and enforced a uniform
19 policy of requiring Plaintiff to work shifts of five hours or more within a single workday
20 without providing a thirty (30) minute uninterrupted duty-free meal period within five (5)
21 hours of the beginning of Plaintiff’s shift. Defendants also failed to pay Plaintiff one hour of
22 pay at Plaintiff’s regular rate of compensation as required by California Labor Code § 226.7
23 and the Wage Order for each meal period that was not provided.

24 14. Likewise, at all times relevant herein, Defendants maintained and enforced a
25 uniform policy by which they repeatedly failed to authorize, permit and provide Plaintiff with
26 paid duty-free rest periods of at least ten (10) consecutive uninterrupted minutes during which
27 Plaintiff was relieved of all duties for every four (4) hours worked or major fraction thereof
28 and which were counted as hours worked for which there would be no deduction from wages,

1 and failed to compensate Plaintiff one (1) hour of wages at Plaintiff's regular rate of
2 compensation as required by California Labor Code § 226.7 and the Wage Order for each rest
3 period not provided.

4 15. At all times relevant herein, Defendants maintained and enforced a uniform
5 policy by which they regularly and consistently required Plaintiff to work more than eight (8)
6 hours in a single workday and more than forty (40) hours in a single workweek without paying
7 Plaintiff premium overtime wages for such overtime hours worked. As a result of this policy,
8 Plaintiff worked unpaid hours in excess of eight (8) in a day and forty (40) in a week.
9 Consequently, Defendants failed to pay Plaintiff overtime premium wages of one and one-half
10 times the employee's regular rate of pay for all hours worked over eight (8) hours in a single
11 workday and/or more than forty (40) hours in a single workweek, as required by California
12 Labor Code §§ 510 and 1194 and the Wage Order.

13 16. At all times relevant herein, Defendants maintained and enforced a uniform
14 policy by which they regularly and consistently failed to provide Plaintiff with complete and
15 accurate itemized wage statements stating the total hours worked, overtime hours worked,
16 gross wages earned, net wages earned, all applicable rates of pay and the corresponding
17 number of hours worked under each rate, all deductions, wages owed for missed rest and meal
18 periods, and accurate accounting for all wages paid to Plaintiff. Defendants also failed to
19 record in ink or other identifiable form all deductions from wages showing the month, day and
20 year, and failed to keep a copy of the statements and records of deductions for three years at
21 the place of employment or at a central location in the State of California. Defendants also
22 failed to keep accurate information with respect to each employee, including full name, home
23 address, occupation, birth date, time records showing when the employee begins and ends each
24 work period, meal periods, total daily hours worked and total wages paid each payroll period,
25 including value of board, lodging, or other compensation actually furnished to the employee.

26 17. At all times relevant herein, Defendants maintained and enforced a uniform
27 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
28 204, 216, 218, 221, 223, 1194, 1198 and the Wage Order by unlawfully refusing to pay wages

1 to Plaintiff.

2 18. At all times relevant herein, Defendants maintained and enforced a uniform
3 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
4 and 203 by failing to pay Plaintiff all owing and unpaid wages for work performed by Plaintiff
5 during Plaintiff's employment and at the end of Plaintiff's employment.

6 19. At all times relevant herein, Defendants maintained and enforced a uniform
7 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
8 204, 218, 1194, 1198, 1199 and the Wage Order by failing to pay Plaintiff for all hours
9 worked, minimum wage for all hours worked, overtime premium wages for all overtime hours
10 worked, and compensation for missed meal and rest periods.

11 20. At all times relevant herein, Defendants maintained and enforced a uniform
12 policy by which they regularly and consistently violated California Labor Code § 2802 by
13 failing to reimburse Plaintiff for using his personal cell phone and purchasing work equipment
14 for work-related purposes.

15 21. Plaintiff is informed and believes, and thereon alleges, that at all times herein
16 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
17 and advisors knowledgeable about California labor and wage law, employment and personnel
18 practices, and about the requirements of California law. Plaintiff is informed and believes, and
19 thereon alleges, that at all relevant times, Defendants knew or should have known each of the
20 following:

21 a. That Plaintiff was entitled to receive an uninterrupted 30-minute meal
22 period before working more than five hours, and, if such meal periods were not provided to
23 Plaintiff, Plaintiff was entitled to the payment of one additional hour of pay at Plaintiff's
24 regular rate of pay, and that Plaintiff was not being provided such meal periods and was not
25 receiving one additional hour of pay at Plaintiff's regular rate of pay on occasions when such
26 meal periods were not so provided;

27 b. That Plaintiff was entitled to receive an uninterrupted 10-minute duty-
28 free rest period for every four hours or major fraction thereof worked, and, if such rest period

1 were not so provided, Defendants were required to pay Plaintiff one additional hour of pay at
2 Plaintiff's regular rate of pay, and that Defendants did not authorize, permit and provide such
3 rest periods and, on such occasions, did not provide Plaintiff with one additional hour of pay at
4 Plaintiff's regular rate of pay;

5 c. That Plaintiff was entitled to receive premium overtime wages for the
6 overtime hours Plaintiff worked and that Plaintiff was in fact not receiving premium overtime
7 wages for such overtime hours;

8 d. That Plaintiff was entitled to receive an agreed wage, and no less than
9 minimum wage, as compensation for any and all hours worked by Plaintiff and that, in
10 violation of the California Labor Code, Plaintiff was not in fact receiving either the agreed
11 wage or at least minimum wage for any and all hours worked;

12 e. That Plaintiff was entitled to receive compensation;

13 f. That Plaintiff was entitled to receive complete and accurate wage
14 statements in accordance with California law, and that, in violation of the California Labor
15 Code, Plaintiff was not provided complete and accurate wage statements;

16 g. That Defendants failed and refused to pay Plaintiff agreed wages;

17 h. That Defendants violated Labor Code § 2802 by failing to reimburse
18 Plaintiff for all business expenses;

19 i. That Plaintiff was entitled to timely payment of wages during their
20 employment, and that Plaintiff did not receive payment of all wages, including but not limited
21 to, meal and rest period premium wages, overtime wages, minimum wages and agreed hourly
22 wages within permissible time periods; and

23 j. That Plaintiff was entitled to timely payment of all owing and unpaid
24 wages upon termination of Plaintiff's employment, and that Plaintiff did not receive payment
25 of all wages, including but not limited to, overtime wages, minimum wages, meal and rest
26 period premium wages and agreed hourly wages within permissible time periods after
27 termination of their employment.

28 22. California Labor Code § 218 states that nothing in Article I of the Labor Code

1 shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to
2 him under this Article.”

FIRST CAUSE OF ACTION

**Failure to Provide Meal Periods or Compensation in Lieu Thereof
(Labor Code §§ 226.7 and 1198; and the Wage Order)
(Plaintiff against Defendants)**

5 23. Plaintiff alleges and incorporates by reference all of the allegations contained in
6 the preceding paragraphs as though fully set forth herein.

7 24. California Labor Code § 226.7 provides that no employer shall require an
8 employee to work during any meal period mandated by an applicable order of the Industrial
9 Welfare Commission. Labor Code § 226.7 further provides that if an employer fails to
10 provide an employee a meal period or rest period in accordance with an applicable order of the
11 Industrial Welfare Commission, the employer shall pay the employee one additional hour of
12 pay at the employee's regular rate of compensation for each workday that the meal or rest
13 period is not provided.

14 25. At all times relevant to this action, the Wage Order and California Labor Code §
15 1198 provided that an employer may not require, cause or permit an employee to work for a
16 period of more than five (5) hours per day without providing the employee with an
17 uninterrupted meal period of not less than thirty (30) minutes, except that if the total work
18 period per day of the employee is not more than six (6) hours, the meal period may be waived
19 by mutual consent of both the employer and the employee.

20 26. At all times relevant herein, Defendants and/or their authorized supervisors
21 repeatedly failed to comply with the meal period requirements of the Labor Code and the
22 Wage Order by failing to provide Plaintiff with a thirty (30) minute uninterrupted duty-free
23 meal period within five (5) hours of the beginning of Plaintiff's shift, in violation of Labor
24 Code §§ 512, 226.7, and the Wage Order. Defendants also failed to compensate Plaintiff one
25 (1) hour of wages for any of the missed meal periods not provided by Defendants, as alleged
26 above, which failure also violated Labor Code §§ 512 and 226.7 and the Wage Order.

27 27. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff is
28 entitled to recover from Defendants one (1) additional hour of pay at Plaintiff's regular hourly

1 rate of compensation for each meal period violation as alleged herein.

2 28. Defendants were at all times aware of the Labor Code and Wage Order
3 requirements that they provide Plaintiff with such meal periods and was aware that Plaintiff
4 regularly worked more than five (5) hours in a shift without receiving mandated meal periods.
5 Thus, Defendants willfully violated the provisions of Labor Code §§ 226.7 and 512 and the
6 Wage Order.

7 29. As a result of the unlawful conduct of Defendants, Plaintiff has been deprived of
8 wages and other compensation in amounts to be determined at trial, and are entitled to
9 recovery of such amounts.

10 30. WHEREFORE, Plaintiff requests relief as herein prayed for.

11 **SECOND CAUSE OF ACTION**

12 **Failure to Provide Rest Periods or Compensation in Lieu Thereof
(Labor Code §§ 226.7 and 1198; and The Wage Order)
(Plaintiff against Defendants)**

13 31. Plaintiff alleges and incorporates by reference all of the allegations contained in
14 the preceding paragraphs as though fully set forth herein.

15 32. California Labor Code § 226.7 provides that no employer shall require an
16 employee to work during any rest period mandated by an applicable order of the California
17 Industrial Welfare Commission. Labor Code Section 226.7 further provides that if an
18 employer fails to provide an employee a meal period or rest period in accordance with an
19 applicable order of the Industrial Welfare Commission, the employer shall pay the employee
20 one additional hour of pay at the employee's regular rate of compensation for each workday
21 that the meal or rest period is not provided.

22 33. The Wage Order and California Labor Code § 226.7 provides that every
23 employer shall provide and shall authorize and permit all employees to take rest periods,
24 which insofar as practicable shall be in the middle of each work period, and that the rest period
25 time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time
26 per four (4) hours or major fraction thereof, unless the total daily work time is less than three
27 and one-half hours.

28 34. At all times relevant herein, on days in which Plaintiff worked at least three- and

1 one-half hours, Defendants regularly and repeatedly required Plaintiff to work four (4) hours
2 and/or a major fraction thereof without providing, authorizing or permitting at least one ten
3 (10) minute rest period during which Plaintiff's was relieved of all duties (hereafter "rest
4 period") per each four (4) hour period, or a major fraction thereof, worked.

5 35. At all times relevant herein, Defendants failed to pay Plaintiff a premium of one
6 hour pay at Plaintiff's regular rate of pay for each rest period not provided, authorized, and
7 permitted as alleged herein, pursuant to Labor Code § 226.7.

8 36. Defendants were at all times aware of the Labor Code and Wage Order
9 requirements that they provide Plaintiff with the rest periods described above and were aware
10 that Plaintiff regularly worked more than four (4) hours or major fraction thereof without
11 receiving mandated rest periods. Defendants therefore at all times willfully violated the
12 provisions of Labor Code § 226.7 and the Wage Order.

13 37. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff is
14 entitled to recover from Defendants one (1) additional hour of pay at Plaintiff's regular hourly
15 rate of compensation for each workday that a rest period was not provided. As a result of the
16 unlawful conduct of Defendant, Plaintiff has been deprived of wages and compensation in
17 amounts to be determined at trial, and are entitled to recovery of such amounts.

18 38. WHEREFORE, Plaintiff requests relief as herein prayed for.

19 **THIRD CAUSE OF ACTION**
20 **Failure to Pay Hourly and Overtime Wages**
(California Labor Code §§ 1194 and 1198; and The Wage Order)
21 **(Plaintiff against Defendants)**

22 39. Plaintiff alleges and incorporates by reference all of the allegations contained in
the preceding paragraphs as though fully set forth herein.

23 40. Plaintiff basis this cause of action upon Defendants' willful and intentional
24 violations of the California Labor Code and Industrial Welfare Commission requirements that
25 Defendants pay Plaintiff for all hours worked, including the requirement to pay premium
26 overtime wages to Plaintiff for work Plaintiff performed in excess of eight hours in a workday
27 and/or 40 hours in a workweek, and/or on the seventh consecutive day in a workweek.
28

1 41. Pursuant to Labor Code § 204, as well as other applicable laws and regulations,
2 and public policy, an employer must timely pay its employees for all hours worked.

3 42. Labor Code § 1198 provides that “The maximum hours of work and the standard
4 conditions of labor fixed by the commission shall be the maximum hours of work and the
5 standard conditions of labor for employees. The employment of any employee for longer hours
6 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

7 43. Labor Code § 1194 provides that “any employee receiving less than the legal
8 minimum wage or the legal overtime compensation applicable to the employee is entitled to
9 recover in a civil action the unpaid balance of the full amount of this minimum wage or
10 overtime compensation, including interest thereon, reasonable attorney's fees, and costs of
11 suit.”

12 44. The Wage Order provides that “such employees shall not be employed more
13 than eight (8) hours in any workday or more than forty (40) hours in any workweek unless the
14 employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all
15 hours worked over 40 hours in the workweek and for the first eight (8) on the seventh (7th)
16 day of work and double the employee’s regular rate of pay for all hours worked over eight (8)
17 on the seventh (7th) day of work in the workweek.

18 45. At all times relevant herein, Defendants required Plaintiff on a regular and
19 repeated basis to work shifts exceeding eight hours in a workday, to work more than 40 hours
20 in a workweek, which hours were often not recorded, without paying overtime premium wages
21 at a rate of no less than one and one-half times the employee’s regular rate of pay.

22 46. At all times relevant herein, Defendants knew or had reason to know that
23 Plaintiff was regularly and consistently required to work more than eight hours in a day and
24 work more than 40 hours in a week, without being paid the appropriate premium overtime
25 wage required by Labor Code §§ 1194 and 1198, and the Wage Order.

26 47. At all times relevant herein, Defendants' conduct as alleged herein amounted to a
27 uniform pattern of unlawful wage and hour practices which resulted from the implementation
28

1 of uniform policies and practices by which Defendants failed to accurately record all hours
2 worked by Plaintiff thereby denying payment of overtime premium wages to Plaintiff for
3 overtime hours worked.

4 48. In committing the violations of the California Labor Code as alleged herein,
5 Defendants engaged in an illegal attempt to avoid the payment of all earned wages and other
6 benefits in violation of the California Labor Code, the Industrial Welfare Commission
7 requirements and other applicable laws and regulations.

8 49. As a direct result of Defendants' unlawful wage practices as alleged herein,
9 Plaintiff has been denied full compensation for all hours worked by Plaintiff, including, but
10 not limited to, premium overtime wages for overtime hours.

11 50. The Labor Code and the Wage order set forth various exemptions by which
12 certain categories of employees are exempt from the protections of the overtime laws
13 contained in the Labor Code. At no time during Plaintiff's employment did any of these
14 exemptions apply to Plaintiff. Moreover, at no time was Plaintiff subject to a valid collective
15 bargaining agreement that would preclude the causes of action set forth in this complaint.
16 Rather, Plaintiff brings this action because of Defendants' violations of non-waiveable rights
17 guaranteed to Plaintiff by the State of California.

18 51. As a direct consequence of Defendants' unlawful failure to pay Plaintiff the full
19 and accurate amount of all earned wages at the appropriate rate for the true number of hours
20 worked, Plaintiff has suffered and will continue to suffer economic injuries in an amount
21 which is presently unknown to Plaintiff, and which will be ascertained according to proof at
22 trial.

23 52. In performing the acts and practices in violation of California labor laws as
24 herein alleged, Defendants have acted and continue to act intentionally, oppressively and
25 maliciously towards Plaintiff, with a conscious disregard for Plaintiff's legal rights and the
26 consequences to Plaintiff, and with the intent of depriving Plaintiff of Plaintiff's property and
27 legal rights and otherwise causing Plaintiff injury, in order to increase Defendants' profits at
28

1 the expense of Plaintiff.

2 53. Plaintiff requests recovery of all unpaid wages, including overtime premium
3 wages, in an amount according to proof, interest on such amounts, statutory costs, and the
4 assessment of any and all statutory penalties against Defendants, all in the sums as provided by
5 the California Labor Code and/or other applicable statutes. In addition, to the extent that
6 overtime compensation is owed Plaintiff whose employment has been terminated, Defendants'
7 conduct violates Labor Code §§ 201 and/or 202, entitling Plaintiff to waiting time penalties
8 under Labor Code § 203, which penalties are sought herein on behalf of Plaintiff.

9 54. WHEREFORE, Plaintiff requests relief as herein prayed for.

10 **FOURTH CAUSE OF ACTION**

11 **Failure to Pay Minimum Wage**

12 **(Labor Code §§ 1194, 1197 and 1199; and The Wage Order)**

13 **(Plaintiff against Defendants)**

14 55. Plaintiff alleges and incorporates by reference all of the allegations contained in
15 the preceding paragraphs as though fully set forth herein.

16 56. Labor Code §1197 provides that it is unlawful to pay less than the minimum
17 wage established by law. At all times relevant herein, Defendants repeatedly failed to pay
18 Plaintiff the minimum wage for all hours worked, as required by the applicable wage order,
19 violating the provisions of Labor Code §1197.

20 57. Labor Code § 1194 provides that "any employee receiving less than the legal
21 minimum wage or the legal overtime compensation applicable to the employee is entitled to
22 recover in a civil action the unpaid balance of the full amount of this minimum wage or
23 overtime compensation, including interest thereon, reasonable attorney's fees, and costs of
24 suit."

25 58. At all times relevant herein, Defendants' conduct as alleged herein amounted to a
26 uniform pattern of unlawful wage and hour practices which resulted from the implementation
27 of uniform policies and practices by which Defendants failed to accurately record all hours
28 worked by Plaintiff thereby denying payment of minimum wages to Plaintiff for hours
worked.

1 59. At all times relevant herein, Defendants maintained and enforced a uniform
2 policy by which they required Plaintiff to perform work without being paid at least minimum
3 wage for the work performed.

4 60. In committing the violations of the California Labor Code as alleged herein,
5 Defendants engaged in an illegal attempt to avoid the payment of all earned wages and other
6 benefits in violation of the California Labor Code, the Industrial Welfare Commission
7 requirements and other applicable laws and regulations.

8 61. As a direct result of Defendants' unlawful wage practices as alleged herein,
9 Plaintiff has been denied full compensation for all hours worked, including, but not limited to,
10 minimum wages for hours worked.

11 62. Pursuant to Labor Code §1199, an employer who (a) requires or causes any
12 employee to work for longer hours than those fixed, or under conditions of labor prohibited by
13 an order of the commission (b) pays or causes to be paid to any employee a wage less than the
14 minimum fixed by an order of the commission and (c) violates and refuses or neglects to
15 comply with any provision of this chapter or any order or ruling of the commission, is
16 punishable by a fine of not less than \$100.00.

17 63. Plaintiff is entitled to recover wages from Defendants, in an amount to be proven
18 at trial, because of Defendants' payment of wages less than minimum wage.

19 64. Plaintiff was required to retain attorneys to bring this action and is entitled to
20 interest and an award of reasonable attorneys' fees pursuant to Labor Code § 1194. Plaintiff is
21 entitled to liquidated damages pursuant to Labor Code § 1194.2.

22 65. WHEREFORE, Plaintiff requests relief as herein prayed for.

23 **FIFTH CAUSE OF ACTION**
24 **Failure to Pay All Wages Upon Termination**
25 **(California Labor Code §§ 201, 202 and 203; and The Wage Order)**
26 **(Plaintiff against Defendants)**

27 66. Plaintiff alleges and incorporates by reference all of the allegations contained in
28 the preceding paragraphs as though fully set forth herein.

 67. Labor Code § 203 provides that if an employer willfully fails to pay wages owed
in accordance with Labor Code §§ 201 and 202, then the wages of the employee shall continue

1 as a penalty from the due date, and at the same rate until paid, but the wages shall not continue
2 for more than thirty (30) days.

3 68. Labor Code § 201 provides if an employer discharges an employee, the wages
4 earned and unpaid at the time of discharge are due and payable immediately.

5 69. Labor Code § 202 provides that an employee is entitled to receive all unpaid
6 wages no later than 72 hours after an employee quits his or her employment, unless the
7 employee has given 72 hours previous notice of his or her intention to quit, in which case the
8 employee is entitled to his or her wages at the time of quitting.

9 70. Defendants willfully failed to pay Plaintiff all wages due, as alleged hereinabove
10 and hereinafter, at the end of Plaintiff's employment within the times prescribed by Labor
11 Code §§201 and 202 and are therefore subject to a waiting time penalty. Plaintiff is entitled to
12 recover from Defendants the statutory penalty for each day Plaintiff was not paid at Plaintiff's
13 regular hourly rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code
14 § 203.

15 71. WHEREFORE, Plaintiff requests relief as herein prayed for.

16 **SIXTH CAUSE OF ACTION**
17 **Violation of Labor Code § 2802**
18 **(Plaintiff against Defendants)**

19 72. Plaintiff alleges and incorporates by reference all of the allegations contained in
20 the preceding paragraphs as though fully set forth herein.

21 73. Pursuant to Labor Code § 2802 an employer shall indemnify his or her employee
22 for all necessary expenditures or losses incurred by the employee in direct consequence of the
23 employee's discharge of his or her duties.

24 74. At all times herein alleged, Defendants regularly and consistently violated Labor
25 Code § 2802 by failing to reimburse Plaintiff for using his personal phone for work-related
26 purposes.

27 75. Plaintiff was required to retain attorneys to bring this action and is entitled to an
28 award of reasonable attorneys' fees pursuant to Labor Code § 2802(c).

SEVENTH CAUSE OF ACTION

**California Labor Code Private Attorneys General Act of 2004
(California Labor Code § 2698)
(Plaintiff and the Aggrieved Employees against Defendant VISTA)**

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

77. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code Sections enumerated in Labor Code Section 2699.5.

78. Plaintiff is an “aggrieved employee” pursuant to Labor Code § 2699, as Plaintiff has suffered violations including, but not limited to, Labor Code §§ 201, 202, 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 233, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1199, 2698 et seq 2699(f) and (g), 2800, 2802, and the Wage Order.

79. Pursuant to PAGA, and in particular California Labor Code §§ 2699(a), 2699.3, and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for Plaintiff and the employees, and the State of California against Defendants on behalf of himself and the employees.

80. WHEREFORE, Plaintiff requests relief as hereinafter prayed for.

EIGHTH CAUSE OF ACTION

**Unfair Business Practices
(California Business and Professions Code §§ 17200 et seq. and Common Law)
(Plaintiff against Defendants)**

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

82. Plaintiff suffered direct injury as a result of the Defendants’ conduct, as alleged in the preceding paragraphs, and bring this action under Code of Civil Procedure § 382. The deprivation by Defendants of Plaintiff of wages due and lawful meal and rest periods, and Defendants’ provision of inaccurate wage statements, are unlawful business practices within the meaning of Business and Professions Code § 17200, et seq. including, but not limited to, a violation of the Wage Order, regulations, and statutes, and further, whether or not in violation of the aforementioned Wage Order, regulation and statutes, amount to practices

1 which are otherwise unfair.

2 83. Under Business and Professions Code § 17200, et seq., including, but not limited
3 to §§ 17201, 17203, and 17208, Plaintiff asserts standing on behalf of himself as alleged
4 herein. Plaintiff seeks, among others, restitution of compensation due during all times relevant
5 herein.

6 84. At all times relevant herein, Defendants have committed violations of law, as
7 described herein, including, but not limited to, violation of Labor Code §§ 201, 202, 203, 216,
8 218, 221, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, and 2802.

9 85. These unlawful and unfair business practices defeat the public interest purposes
10 of the State's labor laws, as set forth in the sections of the California Labor Code, the
11 California Code of Regulation and the Wage Order referenced elsewhere in this complaint, all
12 of which promote compliance with labor laws and employment regulations by participants in
13 Defendants' industry.

14 86. Defendants' unfair and unlawful business practices thus have violated the
15 sections of the Labor Code, California Code of Regulation and the Wage Order referenced in
16 this complaint and have imposed harm on their employees and their competitors and will
17 continue to do so until abated. As a result of these unfair and unlawful business practices,
18 Defendants have retained monies belonging to Plaintiff and they have been unjustly enriched
19 at Plaintiff's expense. Plaintiff is entitled to restitution of the wages and monies withheld and
20 retained by Defendants during the relevant period and a preliminary and permanent injunction
21 requiring Defendants to pay all wages and sums due to Plaintiff, to provide mandatory rest and
22 meal breaks, and to provide accurate and complete wage statements.

23 87. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
24 injury and loss of money.

25 88. This action will result in the enforcement of an important right affecting the
26 public interest. The conduct of Defendants as alleged herein has been and continues to be
27 unfair, unlawful and harmful to Plaintiff and the general public. Accordingly, under Code of
28 Civil Procedure § 1021.5, Plaintiff is entitled to an award of reasonable attorneys' fees

1 according to proof.

2 89. WHEREFORE, Plaintiff requests relief as hereinafter prayed for.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays as follows:

5 1. As to the First and Second Cause of Action, for unpaid premium wages and
6 penalties pursuant to Labor Code §§ 210, 226.7, 512, 1198 and the Wage Order;

7 2. As to the Third and Fourth Cause of Action, for unpaid minimum and overtime
8 wages pursuant to Labor Code §§ 510, 1194, 1197 and 1198, and the Wage Order;

9 3. As to the Fifth Cause of Action, for unpaid wages pursuant to Labor Code §§
10 201, 202, and 203;

11 4. As to the Sixth Cause of Action, for damages and/or penalties pursuant to statute
12 as set forth in Labor Code §§ 2800, 2802, and the Wage Order;

13 5. As to the Seventh Cause of Action, for civil penalties and attorneys' fees
14 pursuant to Labor Code § 2698 et seq., and Labor Code § 226.3;

15 6. As to the Eighth Cause of Action, for restitution of unpaid wages and penalties
16 to Plaintiff, and for prejudgment interest from the day such amounts were due and payable
17 pursuant to Business and Professions Code § 17200 et seq.;

18 7. As to All Causes of Action, for attorneys' fees and costs provided by Labor
19 Code §§ 218.5, 226, 1194 and Code of Civil Procedure § 1021.5; and

20 8. For such other and further relief as the Court may deem equitable and
21 appropriate.

22 **DEMAND FOR JURY TRIAL**

23 Plaintiff hereby demands trial by jury.

24 Date: March 2, 2023

FITZPATRICK & SWANSTON

25 By: /s/ B. James Fitzpatrick

26 B. James Fitzpatrick
27 Attorneys for Plaintiff,
28 Isidro Reyes Ayala