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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

MIGUEL R. ZEPEDA, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

GENERAL PUMP COMPANY, INC., a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: 22STCV39401

CLASS ACTION COMPLAINT:

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Breaks
3. Failure to Provide Required Recovery Periods
4. Failure to Pay Overtime Wages
5. Failure to Pay Minimum Wages
6. Failure to Pay Timely Wages
7. Failure to Pay All Wages Due to Discharged and Quitting Employees
8. Failure to Maintain Required Records
9. Failure to Furnish Accurate Itemized Wage Statements
10. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
11. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION

12. Penalties Under the Labor Code Private Attorneys General Act

DEMAND FOR JURY TRIAL

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5. Plaintiff seeks declaratory, compensatory and other statutorily available relief for himself and a Class of all current and former non-exempt employees of Defendant during the applicable limitations period to compensate these workers for the wages Defendant has stolen from them and to protect current and future workers from being subjected to similar unlawful working conditions perpetrated by Defendant.

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7. Venue is proper in this judicial district and the County of Los Angeles because Plaintiff, and other persons similarly situated, performed work for Defendant in the County of Los Angeles, Defendant runs its business through its corporate office and its warehouse and yard facility is located in the County of Los Angeles, and Defendant's illegal payroll policies and practices, which are the subject of this action were applied to Plaintiff, and other persons similarly situated, in the County of Los Angeles.

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9. Plaintiff, on behalf of himself and all other similarly situated individuals, brings this class action to recover, among other things, wages and penalties from unpaid wages earned and due, including but not limited to, Defendant's failure to provide legally compliant meal periods, rest breaks, and recovery periods, Defendant's failure to provide proper compensation for missed and otherwise unlawful meal periods, rest breaks, and recovery periods, unpaid and illegally calculated regular and overtime compensation, failure to pay minimum wages, failure to pay timely wages and all wages due to discharged or quitting non-exempt employees, failure to maintain required records and failure to provide accurate itemized wage statements, and failure to indemnify employees for necessary employment expenditures.

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11. Defendant conducts business as General Pump Company, Inc., and employs individuals who work as field water well pump installers, field technicians, general laborers, lot hands and other non-exempt positions.

12. The true names and capacities of DOES 1 through 50, inclusive, are unknown to Plaintiff at this time, and Plaintiff therefore sues such DOE defendants under fictitious names. Upon information and belief, each Defendant designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and Plaintiff and Class members' injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and capacities of such DOE defendants when ascertained.

13. As a direct and proximate result of the unlawful actions of Defendant, Plaintiff and Class members have suffered, and continue to suffer, from loss of earnings in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this Court.

CLASS ACTION ALLEGATIONS

14. Plaintiff brings this action on behalf of himself and the following similarly situated Class of individuals ("Class members"):

All non-exempt employees who have performed work for Defendant in the state of California at any time during the relevant statute of limitations period.

15. Plaintiff reserves the right to name additional Class representatives as may be necessary and appropriate. Plaintiff also reserves the right to modify or amend the definition of the proposed Class and/or add subclasses before the Court determines whether certification is appropriate

16. This action is appropriately suited for a class action because:

A. The proposed Class is a significant number. Plaintiff is informed and believes that the proposed Class consists of at least 75 current and former non-exempt employees. Joinder of all current and former non-exempt employees individually would be impractical.

B. This action involves common questions of law and fact to the proposed Class because the action focuses on Defendant's systematic course of illegal payroll practices and

1 policies, which was applied to all non-exempt employees in uniform violation of the California
2 Labor Code, IWC Wage Orders, and the California Business and Professions Code, which
3 prohibits unfair business practices arising from such violations. Here are a few common questions
4 of law and fact that can be answered on a classwide basis:

- 5 • Whether Defendant failed to provide non-exempt employees with legally
6 compliant meal periods, rest breaks, and recovery periods;
- 7 • Whether Defendant failed to pay overtime to non-exempt employees in
8 compliance with California law;
- 9 • Whether Defendant failed to pay minimum wages to non-exempt employees in
10 compliance with California law;
- 11 • Whether Defendant failed to timely pay wages to non-exempt employees in
12 compliance with California law;
- 13 • Whether Defendant failed to pay all wages due upon discharge or termination;
- 14 • Whether Defendant failed to maintain required records and accurate wage
15 statements for non-exempt employees;
- 16 • Whether Defendant failed to furnish accurate itemized wage statements to
17 employees;
- 18 • Whether Defendant failed to reimburse employees for business expenses
19 incurred; and
- 20 • Whether Defendant engaged in unfair and/or unlawful business practices.

21 C. Plaintiff's claims are typical of the proposed Class because Defendant subjected all
22 of its non-exempt employees to the similar and overlapping violations of the California Labor
23 Code, the applicable IWC wage order, and the California Business and Professions Code.

24 D. Plaintiff is able to fairly and adequately protect the interests of all members of the
25 proposed Class because it is in his best interests to prosecute the claims alleged herein to obtain
26 full compensation due to the proposed Class for all services rendered and hours worked. Plaintiff
27 has also retained counsel that is experienced in wage and hour class action litigation.

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1 **FIRST CAUSE OF ACTION**

2 **Failure to Provide Required Meal Periods**

3 **[Cal. Lab. Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 16-2001, § 10 and All**

4 **Other Applicable IWC Wage Orders]**

5 **(On Behalf of Plaintiff and the Class Against all Defendants)**

6 17. Plaintiff incorporates herein by specific reference, as though fully set forth, the
7 allegations in paragraphs 1 through 16 (A – D).

8 18. During the statute of limitations period, as part of Defendant's unlawful policies
9 and practices to deprive its non-exempt employees of all wages earned and due, Defendant
10 required, permitted or otherwise suffered Plaintiff and Class members to perform work during
11 their meal periods, to completely skip their meal periods, to take late and short meal periods, and
12 Defendant has otherwise failed to provide the required meal periods to Plaintiff and Class
13 members as required under California Labor Code §§ 226.7, 512, and § 10 of the applicable IWC
14 Order, and all other pertinent IWC Wage Orders and sections.

15 19. Defendant has implemented several common policies and practices that have
16 caused Plaintiff and Class members to systematically miss and otherwise take non-compliant meal
17 periods.

18 20. Defendant grossly understaffs its facility such that Class members regularly miss or
19 take non-compliant meal periods. As a direct consequence of this understaffing, Plaintiff and
20 Class members have so much work to complete within their scheduled shifts that they are forced
21 to skip their meal periods altogether, to take them after working longer than five (5) hours, to
22 perform work during their meal periods, or return to work after taking less than a thirty (30)
23 minute meal period.

24 21. Moreover, Defendant failed to implement adequate policies or procedures to
25 provide meal periods to its non-exempt employees. Among other things, Defendant overworked
26 Plaintiff and Class members and did not adequately advise them of their rights to take meal
27 periods, and systematically denied them the opportunity to take meal periods, including second
28 meal periods during shifts of ten hours or longer.

22. Defendant has also violated California Labor Code §§ 226.7, IWC Wage Order No. 16-2001, § 10, all other applicable IWC Wage Orders, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to compensate Plaintiff and Class members who were not authorized and permitted to take a complete, timely, uninterrupted meal period, in accordance with the applicable wage order, one additional hour of compensation at the proper regular rate of pay for each workday that such a meal period was not authorized or permitted.

23. Defendant further violated California Labor Code sections 226.7, 510, 1194, 1197, IWC Wage Order No. 16-2001, and all other applicable IWC Wage Orders, by failing to compensate Plaintiff and Class members for all hours worked during their meal periods.

24. As a proximate result of the aforementioned violations, Plaintiff and Class members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses, and costs of suit.

SECOND CAUSE OF ACTION

Failure to Provide Required Rest Breaks

[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 16-2001, § 11, and

All Other Applicable IWC Wage Orders]

(On Behalf of Plaintiff and the Class Against all Defendants)

25. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 24.

26. At all times relevant herein, as part of Defendant's illegal policies and practices to deprive its non-exempt employees of all wages earned and due, Defendant failed to permit Plaintiff and Class members to take rest breaks as required under California Labor Code §§ 226.7 and 512, and § 11 of the applicable IWC Wage Order, and all other pertinent and applicable IWC Wage Orders.

27. As with meal periods, Defendant's policies and practices caused Plaintiff and Class members to miss or otherwise take non-compliant rest periods by, among other things, giving them unreasonable amounts of work that had to be completed within their shift such that rest periods simply could not be taken. This was the result of systematic understaffing. In addition,

1 Defendant did not adequately notify Plaintiff and Class members of their rights to take rest
2 periods, and systematically denied them the opportunity to take rest periods, including all rest
3 periods required during long shifts, which at times exceeded 12 consecutive hours.

4 28. Defendant further violated California Labor Code § 226.7, IWC Wage Order No.
5 16-2001, § 11, all other applicable IWC Wage Orders, and the California Unfair Competition Law,
6 Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to pay Plaintiff and Class members who were
7 not provided with a rest break, in accordance with the applicable wage order, one additional hour
8 of compensation at the proper regular rate of pay for each workday that a rest break was not
9 provided.

10 29. As a proximate result of the aforementioned violations, Plaintiff and Class
11 members have been damaged in an amount according to proof at trial, and seek all wages earned
12 and due, interest, penalties, expenses, and costs of suit.

13 **THIRD CAUSE OF ACTION**

14 **Failure to Provide Required Recovery Periods**

15 **[Cal. Lab. Code § 226.7; California Code of Regulations, Title 8, Section 3395]**

16 **(On Behalf of Plaintiff and the Class Against all Defendants)**

17 30. Plaintiff incorporates herein by specific reference, as though fully set forth, the
18 allegations in paragraphs 1 through 29.

19 31. At all times relevant herein, as part of Defendant's illegal payroll policies and
20 practices to deprive their non-exempt employees of all wages earned and due, Defendant failed to
21 permit Plaintiff and Class members to take recovery periods as required under Cal. Lab. Code §
22 226.7 and California Code of Regulations, Title 8, Section 3395. Defendant was and is required to
23 provide recovery or "cooldown" periods to non-exempt employees like Plaintiff and his
24 coworkers, who work outdoors performing manual labor, in order to prevent heat illness.

25 32. Plaintiff and Class members work outdoors, performing intense manual labor on
26 Defendant's worksites. This work is performed over the course of many hours in temperatures
27 exceeding 80 degrees Fahrenheit, and often up to 100 degrees Fahrenheit. Despite these work
28 conditions, Defendant has failed to implement any policy or practice of providing recovery periods

1 to its non-exempt employees. Defendant has similarly failed to make efforts to comply with heat
2 illness prevention regulations by providing places of shade for recovery periods or by supplying
3 sufficient amounts of drinking water. There are times when Defendant does not provide Plaintiff
4 and Class members with drinking water during an entire week. As with meal and rest breaks,
5 Defendant did not provide Plaintiff and Class members with any written documents informing
6 them of their rights to take recovery periods, and thus they did not take them.

7 33. Defendant further violated Cal. Lab. Code § 226.7, and the California Unfair
8 Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to pay Plaintiff and Class
9 members who were not provided with a recovery period, one additional hour of compensation at
10 the proper regular rate of pay for each workday that a recovery period was not provided.

11 34. As a proximate result of the aforementioned violations, Plaintiff and Class
12 members have been damaged in an amount according to proof at trial, and seek all wages earned
13 and due, interest, penalties, expenses, and costs of suit.

14 **FOURTH CAUSE OF ACTION**

15 **Failure to Pay Overtime Wages**

16 **[Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 16-2001, § 3**

17 **and All Other Applicable Wage Orders]**

18 **(On Behalf of Plaintiff and the Class against all Defendants)**

19 35. Plaintiff incorporates herein by specific reference, as though fully set forth, the
20 allegations in paragraphs 1 through 34.

21 36. Pursuant to California Labor Code §§ 510, 1194, IWC Wage Order No. 16-2001, §
22 3, and all other applicable IWC Wage Orders, Defendant is required to compensate Plaintiff and
23 Class members for all overtime, which is calculated at one and one-half (1 ½) times the regular
24 rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per
25 week, and for the first eight (8) hours on the seventh consecutive workday, with double time for
26 all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess
27 of eight (8) hours on the seventh consecutive day of work in any workweek.

28 37. Plaintiff and Class members are current and former non-exempt employees entitled

1 to the protections of California Labor Code §§ 510, 1194, IWC Wage Order No. 16-2001 and all
2 other applicable IWC Wage Orders. During the Class period, Defendant failed to compensate
3 Plaintiff and Class members for all overtime hours worked as required under the foregoing
4 provisions of the California Labor Code and IWC Wage Order by, among other methods: failing
5 to properly calculate the highest regular rate of pay for the purposes of calculating overtime pay
6 owed and due by failing to blend nondiscretionary bonus payments and/or other incentives;
7 requiring, permitting or suffering Plaintiff and Class members to work off the clock; requiring,
8 suffering, or permitting Plaintiff and Class members to work through meal periods, rest breaks,
9 and recovery periods, but not compensating them for this time, failing to include this time in all
10 hours worked; rounding the time worked by Plaintiff and Class members unfavorably; and other
11 methods to be discovered.

12 38. In a short-sighted attempt to maximize profits, Defendant understaffs its work
13 locations and sites. Not only has this practice resulted in widespread missed meal periods, rest
14 breaks, and recovery periods, but it has also caused Plaintiff and Class members to perform
15 significant amounts of work while off-the-clock. Defendant knows that Plaintiff and Class
16 members perform this work off-the-clock work because Defendant's owner and operator was
17 aware of them doing this work well before the beginning of the start of their scheduled shifts.

18 39. In violation of California law, Defendant has knowingly and willfully refused to
19 perform its obligations to compensate Plaintiff and Class members for all wages earned and all
20 hours worked at the legally required rates of pay. As a proximate result, Plaintiff and Class
21 members have suffered, and continue to suffer, substantial losses related to the use and enjoyment
22 of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
23 Defendant to fully perform its obligations under state law, all to their respective damages in
24 amounts according to proof at time of trial, and within the jurisdiction of this Court.

25 40. Defendant's conduct described herein violates California Labor Code §§ 510, 1194,
26 1198, IWC Wage Order No. 16-2001, § 3 and all other applicable IWC Wage Orders. Therefore,
27 pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable
28 provisions under the California Labor Code and IWC Wage Orders, Plaintiff and Class members

1 are entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest,
2 penalties, attorneys' fees, expenses, and costs of suit.

3 **FIFTH CAUSE OF ACTION**

4 **Failure to Pay Minimum Wages**

5 **[Cal. Lab. Code §§ 1194, 1197; IWC Wage Order No. 16-2001, § 4**

6 **and All Other Applicable Wage Orders]**

7 **(On Behalf of Plaintiff and the Class against all Defendants)**

8 41. Plaintiff incorporates herein by specific reference, as though fully set forth, the
9 allegations in paragraphs 1 through 40.

10 42. Pursuant to Cal. Lab. Code §§ 1194, 1197, § 4 of IWC Wage Order No. 16, and all
11 other applicable IWC Wage Orders, the payment to an employee of less than the applicable
12 minimum wage for all hours worked in a payroll period is unlawful.

13 43. During the statute of limitations period, the hourly rates for Plaintiff and Class
14 members were precisely at minimum wage. Based on this common practice, Defendant failed to
15 actually pay Plaintiff and Class members minimum wages for all hours worked by requiring,
16 permitting or suffering them to work off-the-clock, such as requiring them to work through meal
17 periods, rest breaks, and recovery periods, but not compensating them for this time, and failing to
18 include this time in all hours worked, and other methods to be discovered.

19 44. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, § 4
20 of IWC Wage Order No. 16, and all other applicable IWC Wage Orders. As a proximate result of
21 the aforementioned violations, Plaintiff and Class members have been damaged in an amount
22 according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558,
23 1194, 1197.1, and any other applicable law, Plaintiff and Class members are entitled to recover the
24 unpaid balance of wages owed to them by Defendant, plus interest, penalties, attorneys' fees,
25 expenses, and costs of suit.

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1 also willfully failed and continues to fail to pay accrued wages and other compensation to Plaintiff
2 and Class members in accordance with California Labor Code §§ 201 and 202.

3 50. As a result, Plaintiff and Class members are entitled to all available statutory
4 penalties, including the waiting time penalties provided in California Labor Code § 203, together
5 with interest thereon, as well as other available remedies.

6 51. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and
7 Class members have been deprived of compensation in an amount according to proof at the time
8 of trial, but in excess of the jurisdiction of this Court, and are entitled to recovery of such amounts,
9 plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code § 1194.

10 **SEVENTH CAUSE OF ACTION**

11 **Failure to Pay Timely Wages**

12 **[Cal. Lab. Code §§ 204, 210]**

13 **(On Behalf of Plaintiff and the Class against all Defendants)**

14 52. Plaintiff incorporates herein by specific reference, as though fully set forth, the
15 allegations in paragraphs 1 through 51.

16 53. California Labor Code § 204 provides that all wages earned by any person in any
17 employment between the 1st and 15th days, inclusive, of any calendar month, other than those
18 wages due upon termination of an employee, are due and payable between the 16th and 26th day
19 of the month during which the labor was performed. California Labor Code § 204 further
20 provides that all wages earned by any person in any employment between the 16th and the last
21 day, inclusive, of any calendar month, other than those wages due upon termination of an
22 employee, are due and payable between the 1st and the 10th day of the following month.
23 California Labor Code § 204 further provides that all wages eared for labor in excess of the
24 normal work period shall be paid no later than the payday for the next regular payroll period.

25 54. During the statute of limitations period, Defendant, among other things, willfully
26 failed to pay Plaintiff and Class members all wages earned and due to them, including but not
27 limited to, meal period, rest break, and recovery period premiums, overtime and minimum wages,
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1 highest regular rate of pay based upon nondiscretionary bonus payments; and payment for work
2 performed off-the-clock, within any time period permissible under Labor Code § 204.

3 55. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and
4 Class members are entitled to all available statutory penalties, including but not limited to, civil
5 penalties pursuant to California Labor Code §§ 200, 210, 558, 1194, 1197.1, 2699(a), and other
6 applicable provisions under the California Labor Code and IWC Wage Orders, and an award of
7 costs, expenses, and reasonable attorneys' fees.

8 **EIGHTH CAUSE OF ACTION**

9 **Failure to Maintain Required Records**

10 **[Cal. Lab. Code §§ 226, 1174; IWC Wage Order No. 16-2001, § 6**

11 **and All Other Applicable Wage Orders]**

12 **(On Behalf of Plaintiff and the Class against all Defendants)**

13 56. Plaintiff incorporates herein by specific reference, as though fully set forth, the
14 allegations in paragraphs 1 through 55.

15 57. During the statute of limitations period, as part of Defendant's illegal payroll
16 policies and practices to deprive Plaintiff and Class members of all wages earned and due,
17 Defendant knowingly and intentionally failed to maintain records as required under California
18 Labor Code §§ 226, 1174, and IWC Wage Order No. 16-2001, § 6, including but not limited to,
19 the following records: total daily hours worked by each non-exempt employee; applicable rates of
20 pay; all deductions; meal periods; time records showing when each non-exempt employee begins
21 and ends each workday; failure to provide and account for supplemental COVID-19 sick leave
22 available and take; and accurate itemized wage statements.

23 58. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and
24 Class members have been damaged in an amount according to proof at trial, and are entitled to all
25 wages earned and due, plus interest thereon. Additionally, Plaintiff and Class members are
26 entitled to all available statutory penalties, including but not limited to civil penalties pursuant to
27 California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and
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1 reasonable attorneys' fees, including but not limited to those provided in California Labor Code §
2 226(e), as well as other available remedies.

3 **NINTH CAUSE OF ACTION**

4 **Failure to Furnish Accurate Itemized Wage Statements**

5 **[Cal. Lab. Code §§ 226; IWC Wage Order No. 16-2001, § 6 and All Other**
6 **Applicable IWC Wage Orders]**

7 **(On Behalf of Plaintiff and the Class against all Defendants)**

8 59. Plaintiff incorporates herein by specific reference, as though fully set forth, the
9 allegations in paragraphs 1 through 58.

10 60. During the statute of limitations period, Defendant routinely failed to provide
11 Plaintiff and Class members with timely, accurate, and itemized wage statements in writing
12 showing each employee's gross wages earned, total hours worked, all deductions made, net wages
13 earned, and all applicable hourly rates in effect during each pay period and the corresponding
14 number of hours worked at each hourly rate, in violation of California Labor Code § 226, IWC
15 Wage Order No. 16-2001, § 6, and all other applicable IWC Wage Orders.

16 61. Defendant's wage statements violate Labor Code § 226 by, among other things,
17 failing to provide Plaintiff and Class members with proper meal periods, rest breaks, and recovery
18 periods, and not including in their wage statements one (1) additional hour of compensation at
19 their regular rates of pay for each non-compliant meal period, rest break, or recovery period. In
20 addition, Defendant required Plaintiff and Class members to work off-the-clock without
21 compensation and illegally rounded the time that they worked, rendering the wage statements
22 inaccurate. Moreover, Defendant failed to pay the highest regular rate of pay based upon
23 nondiscretionary bonus payments resulting in the underpayment of overtime, sick pay and
24 premium payments for missed meal and rest periods, to the extent that any premiums were paid.

25 62. Defendant knowingly and intentionally failed to provide Plaintiff and Class
26 members with timely, accurate, and itemized wage statements in accordance with California Labor
27 Code § 226(a) so as to prevent Plaintiff and Class members from being able to determine whether
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1 they were being paid for, among other things, all of the hours they worked and at the proper rates
2 of pay.

3 63. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and
4 Class members have been damaged in an amount according to proof at trial, and seek all wages
5 earned and due, plus interest thereon. Additionally, Plaintiff and Class members are entitled to all
6 available penalties, including but not limited to penalties pursuant to California Labor Code §§
7 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees,
8 including but not limited to those provided in California Labor Code § 226(e), as well as other
9 available remedies.

10 **TENTH CAUSE OF ACTION**

11 **Failure to Indemnify for Necessary Expenditures Incurred in Discharge of Duties**

12 **[Cal. Lab. Code § 2802]**

13 **(On Behalf of Plaintiff and the Class against All Defendants)**

14 64. Plaintiff incorporates herein by specific reference, as though fully set forth, the
15 allegations in paragraphs 1 through 63.

16 65. California Labor Code § 2802(a) requires an employer to indemnify an employee
17 for all necessary expenditures or losses incurred by the employee in direct consequence of the
18 discharge of his or her duties, or of his or her obedience to the directions of the employer.

19 66. During the statute of limitations period, Defendant knowingly and willfully failed to
20 indemnify Plaintiff and Class Members for all business expenses and/or losses incurred in direct
21 consequence of the discharge of their duties while working under the direction of Defendant,
22 including but not limited to, cellular phone usage and other employment-related expenses, in
23 violation of California Labor Code § 2802.

24 67. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and
25 Class members have been damaged in an amount according to proof at trial, and seek reimbursement
26 of all necessary expenditures, plus interest thereon pursuant to California Labor Code § 2802(b).
27 Additionally, Plaintiff and Class Members are entitled to all available statutory penalties and an
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1 award of costs, expenses, and reasonable attorneys' fees, including those provided in California
2 Labor Code § 2802(c), as well as other available remedies.

3 **ELEVENTH CAUSE OF ACTION**

4 **Unfair and Unlawful Business Practices**

5 **[Cal. Bus. & Prof. Code § 17200 *et. seq.*]**

6 **(On Behalf of Plaintiff and the Class against all Defendants)**

7 68. Plaintiff incorporates herein by specific reference, as though fully set forth, the
8 allegations in paragraphs 1 through 67.

9 69. Each and every one of Defendant's acts and omissions in violation of the California
10 Labor Code and/or the applicable IWC Wage Order as alleged herein, including but not limited to,
11 Defendant's failure to provide required meal periods, rest breaks, and recovery periods, failure to
12 pay proper overtime and minimum wage compensation, unlawful rounding and requiring off-the-
13 clock work, failure to pay timely wages and all wages due to discharged or quitting employees or
14 to pay timely wages, failure to pay wages at the highest regular rate of pay based upon
15 nondiscretionary bonus payments, failure to furnish accurate itemized wage statements or to
16 maintain required records, and failure to indemnify employees for necessary employment
17 expenditures, constitute an unfair and unlawful business practice under California Business and
18 Professions Code § 17200 *et seq.*

19 70. Defendant's violations of California wage and hour laws constitute a business
20 practice because Defendant's aforementioned acts and omissions were done repeatedly over a
21 significant period of time, and in a systematic manner, to the detriment of Plaintiff and Class
22 members.

23 71. Among other practices, Defendant has avoided payment of wages, overtime wages,
24 the provision of meal periods, rest breaks, and recovery periods, and other benefits as required by
25 the California Labor Code, the California Code of Regulations, and the applicable IWC Wage
26 Order. Further, Defendant has failed to record, report, and pay the correct sums of assessment to
27 the state authorities under the California Labor Code and other applicable regulations.
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1 72. As a result of these unfair and unlawful business practices, Defendant has reaped
2 unfair and illegal profits during the Class period at the expense of Plaintiff and Class members,
3 and members of the public. Defendant should be made to disgorge its ill-gotten gains and to
4 restore them to Plaintiff and Class members.

5 73. Defendant's unfair and unlawful business practices entitle Plaintiff and Class
6 members to seek preliminary and permanent injunctive relief, including but not limited to orders
7 that Defendant account for, disgorge, and restore to Plaintiff and Class members the wages and
8 other compensation unlawfully withheld from them. Plaintiff and Class members are entitled to
9 restitution of all monies to be disgorged from Defendant in an amount according to proof at the
10 time of trial.

11 **TWELFTH CAUSE OF ACTION**

12 **Representative Action for Civil Penalties Pursuant to the Private Attorneys**

13 **General Act ("PAGA")**

14 **[Cal. Lab. Code §§ 2698- 2699.5]**

15 **(On Behalf of Plaintiff and all Other Aggrieved Employees against all Defendants)**

16 74. Plaintiff incorporates herein by specific reference as though fully set forth the
17 allegations in paragraphs 1 through 73, with exception of the allegations in Paragraphs 15 through
18 16 (A) – (D).

19 75. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code
20 § 2699(c), and is a proper representative to bring a civil action on behalf of himself and other
21 current and former non-exempt employees of Defendant pursuant to the procedures specified in
22 California Labor Code § 2699.3, because Plaintiff was employed by Defendant and the alleged
23 violations of the California Labor Code were committed against Plaintiff.

24 76. Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"),
25 California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties, including but not
26 limited to penalties under California Labor Code §§ 2699, in a representative action for the
27 violations set forth above, including but not limited to violations of California Labor Code §§ 201,
28

202, 203, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g)(1).

77. In addition to the foregoing allegations, Defendant has violated Labor Code §248.1, et seq., relating to the provision of supplemental COVID-19 sick leave which gives rise to liability under the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code §§ 2698-2699.5. Specifically, Defendant violated Labor Code § 248.1, et seq., by failing to provide 80 hours of COVID-19 Supplemental Paid Sick leave and compensate Plaintiff and the other aggrieved employees at their regular rate of pay for supplemental sick leave, i.e., their highest regular rate of pay, taking into consideration non-discretionary bonuses, etc., in violation of California Labor Code § 248.1(b)(3)(A). Defendant also failed to provide COVID-19 Supplemental Sick Leave to aggrieved employees in violation of California Labor Code § 248.1(b)(2)(D). Defendant also failed to accurately reflect any offset and/or the current amount of COVID-19 Supplemental Sick Leave available to aggrieved employees on their wage statements, in violation of California Labor Code §§ 248.1(b)(2)(D), 248.2, 248.6 and related provisions.

78. Pursuant to California Labor Code §§ 2699.3, on October 13, 2022, Plaintiff gave written notice by certified mail to the California Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories to support the alleged violations. Within sixty-five (65) calendar of the postmark date of Plaintiff's notice letter, the LWDA did not provide notice to Plaintiff that it intends to investigate the alleged violations. Therefore, Plaintiff has complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a representative action under PAGA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other persons similarly situated, respectfully prays for relief against Defendant and DOES 1 through 50, inclusive, and each of them, as follows:

1. For compensatory damages in an amount to be ascertained at trial;

2. For restitution of all monies due to Plaintiff and Class members, as well as disgorged profits from the unfair and unlawful business practices of Defendant;
3. For meal period, rest break, and recovery period compensation pursuant to California Labor Code § 226.7, IWC Wage Order No. 16-2001, and all other applicable IWC wage orders;
4. For liquidated damages pursuant to California Labor Code § 1194.2;
5. For preliminary and permanent injunctive relief enjoining Defendant from violating the relevant provisions of the California Labor Code and the IWC Wager Orders, and from engaging in the unlawful business practices complained of herein;
6. For waiting time penalties pursuant to California Labor Code § 203;
7. For statutory and civil penalties according to proof;
8. For interest on the unpaid wages at 10 percent per annum pursuant to California Labor Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment interest;
9. For reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5, 226, 1194, 2802, and 2699, and California Civil Code § 1021.5, and/or any other applicable provisions providing for attorneys' fees and costs;
10. For declaratory relief;
11. For an order requiring and certifying the First through Eleven Causes of Action as a class action;
12. For an order appointing Plaintiff as Class representative and Plaintiff's counsel as Class counsel; and
13. For such further relief that the Court may deem just and proper.

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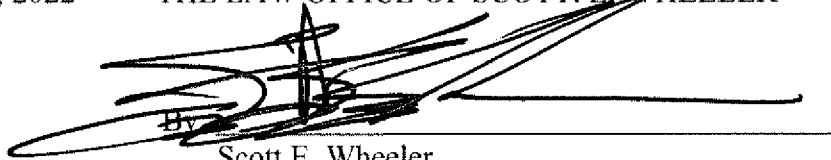
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff, on behalf of himself and all others similarly situated, hereby demands a jury trial
3 with respect to all issues triable of right by jury.

4 DATED: December 14, 2022

THE LAW OFFICE OF SCOTT. E. WHEELER

5
6  By _____

7 Scott E. Wheeler
8 Justin A. Wheeler

9 *Attorneys for Plaintiff and the Putative Class*