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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
12/12/2022
Clerk of the Court
BY: WILLIAM TRUPEK
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

ALFREDO ABARCA, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

CIRCOSTA IRON & METAL COMPANY
INC., a California corporation; and DOES 1
through 100, Inclusive,

Defendants.

Case No. CGC-22-602245

**FIRST AMENDED CLASS AND
REPRESENTATIVE CLASS ACTION
COMPLAINT FOR:**

- (1) FAILURE TO PAY OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 1198);**
- (3) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 1198)**
- (4) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (5) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*).**
- (7) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Alfredo Abarca (“Plaintiff”), on behalf of himself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint against
3 Circosta Iron and Metal Company Inc., a California corporation; and Does 1 through 100,
4 inclusive (collectively, “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 class and representative action for recovery of unpaid wages and penalties under California
8 Business and Professions Code section 17200, *et. seq.*; Labor Code sections 201-204, 226, 226.7,
9 510, 512, 516, 558, 1194, 1197, and 1198, 2698 *et seq*; and Industrial Welfare Commission Wage
10 Order No. 1 (“Wage Order 1”), in addition to seeking declaratory relief and restitution. This class
11 action is brought pursuant to California Code of Civil Procedure section 382. This Court has
12 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
13 controversy exceeds this Court’s jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in San Francisco County. Defendants own, maintain offices, transact business, have an
18 agent or agents within San Francisco County, and/or otherwise are found within San Francisco
19 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
23 the filing of this action and within the statute of limitations periods applicable to each cause of
24 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
25 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
26 and/or property, and has been deprived of the rights guaranteed by California Labor Code §§ 201-
27 204, 226, 226.7, 510, 512, 516, 558, 1194, 1197, 1198, 2698 *et seq*; California Business &
28 Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order 1, which sets

1 employment standards for employees in any business or establishment operated for the purpose
2 of preparing, producing, making, altering, repairing, finishing, processing, inspecting, handling,
3 assembling, wrapping, bottling, or packaging goods, articles, or commodities, in whole or in part.

4 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
5 years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)
6 business as a metal and scrap recycling company, and that they employed Plaintiff and other
7 similarly situated non-exempt employees within San Francisco County and the state of California.

8 5. Plaintiff does not know the true names or capacities, whether individual, partner,
9 or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
11 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
12 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
13 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
14 and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the
15 unlawful employment practices, wrongs, injuries, and damages complained of herein.

16 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
17 mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

18 7. At all times herein mentioned, each of said Defendants participated in the acts
19 herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and
20 each of them, were the agents, servants, and employees of each of the other Defendants, as well
21 as the agents of all Defendants, and at all times herein mentioned were acting within the course
22 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
23 and/or otherwise ratified each of the acts or omissions alleged herein.

24 8. At all times mentioned herein, Defendants, and each of them, were members of
25 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
26 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
27 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
28 Members (as defined in Paragraph 16).

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff was employed by Defendants as a non-exempt employee from approximately December 2020 until approximately October 22, 2021.

10. During Plaintiff's employment with Defendants, Defendants utilized a timekeeping system which resulted in Plaintiff not being compensated for all hours worked. Specifically, Plaintiff and other non-exempt employees were required to clock in and out for their shifts, and although upon information and belief, Defendants recorded Plaintiff's hours worked to the minute, Defendants only paid Plaintiff in half-hour increments and rounded and/or time-shaved Plaintiff's and other employees' time records in a manner that resulted in them not being paid for all hours worked. For example, in the pay period of October 3-9, 2021, Plaintiff worked 6.04 hours of overtime as reflected in his time sheets; however, he was only paid for 3.0 hours of overtime as reflected in his wage statement. Even assuming *arguendo* a half-hour meal period on each of the five workdays during that pay period (as discussed *infra*, Defendants failed to keep records of employees' meal periods), Plaintiff was still underpaid for his time worked by approximately 0.54 hours of overtime wages. Similarly, in the pay period of January 3-9, 2021, Plaintiff's time sheets reflect that he worked 4.88 hours of overtime, but his wage statement from that pay period reflects that he was not paid *any* overtime wages. As a result of Defendants' rounding/time-shaving practice, Defendants have failed to pay Plaintiff and other non-exempt employees all overtime wages owed to them.

11. Defendants have also failed to provide Plaintiff and other non-exempt employees with all statutorily mandated meal periods, due to Defendants' meal period policies/practices. Specifically, Defendants scheduled lunch for Plaintiff and other non-exempt employees at 12:00 p.m., even though Plaintiff regularly clocked in for work between 6:00 a.m. and 6:30 a.m. This policy/practice resulted in meal periods that were consistently late, i.e. commencing after more than 5.0 hours of work. In those instances that Defendants failed to provide Plaintiff and other non-exempt employees with a legally compliant meal period, Defendants failed to pay the meal period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Defendants maintained no payroll code or other mechanism

1 for paying meal period premiums when Defendants failed to provide a legally compliant meal
2 period.

3 12. Defendants have also failed to authorize and permit all statutorily mandated rest
4 periods to Plaintiff and other non-exempt employees. Specifically, Defendants have failed to
5 authorize and permit a 10-minute net rest period for every 4 hours worked or major fraction
6 thereof, as Defendants generally authorized and permitted only one rest period per workday,
7 typically in the first 4 hours of the work day, but did not authorize or permit a second rest period
8 to Plaintiff and other non-exempt employees on workdays over 6.0 hours. In those instances that
9 Defendants failed to authorize and permit Plaintiff and other non-exempt employees to take all
10 legally required rest periods, Defendants failed to pay the rest period premiums required by Labor
11 Code § 226.7. Upon information and belief, during at least a portion of the putative class period,
12 Defendants maintained no payroll code or other mechanism for paying rest period premiums
13 when Defendants failed to authorize and permit a legally compliant rest period.

14 13. In addition to failing to compensate Plaintiff and other non-exempt employees for
15 all overtime wages earned, as well as provide all meal and rest periods, Defendants did not provide
16 any mechanism for Plaintiff and other non-exempt employees to clock out or otherwise record
17 their meal periods. As a result, Defendants did not keep a record of Plaintiff's and other non-
18 exempt employees' meal periods and/or total hours worked, in violation of California law. Wage
19 Order 1 § 7(A)(3) requires, "Every employer shall keep accurate information with respect to each
20 employee including...Time records showing when the employee begins and ends each work
21 period. Meal periods...and total daily hours worked shall also be recorded."

22 14. As a result of Defendants' failure to pay all overtime wages, as well as Defendants'
23 failure to pay meal and rest period premium wages, Defendants failed to pay all wages to Plaintiff
24 and other formerly employed non-exempt employees at the separation of their employment.

25 15. As a further result of Defendants' failure to pay all overtime wages, as well as
26 Defendants' failure to pay meal and rest period premium wages, Defendants maintained
27 inaccurate payroll records, and issued inaccurate wage statements to Plaintiff and other non-
28 exempt employees.

1 **CLASS ACTION ALLEGATIONS**

2 16. Class Definitions: Plaintiff bring this action on behalf of himself and the following
3 Classes pursuant to Section 382 of the Code of Civil Procedure:

4 a. The Overtime Class consists of all of the Defendants' current and former non-
5 exempt employees in California who worked more than 8.0 hours in a workday and/or over
6 40.0 hours in a workweek, and were subject to Defendants' timekeeping and payroll
7 practices, at any time from four years immediately preceding the filing of this action
8 through the present.

9 b. The Meal Period Class consists of all of the Defendants' current and former non-
10 exempt employees in California who worked at least one shift in excess of 5.0 hours, at
11 any time from four years immediately preceding the filing of this action through the
12 present.

13 c. The Rest Period Class consists of all of the Defendants' current and former non-
14 exempt employees in California who worked at least one shift of 3.5 hours or more, at any
15 time from four years immediately preceding the filing of this action through the present.

16 d. The Wage Statement Class consists of all members of the Overtime Class, Meal
17 Period Class, and/or Rest Period Class who received a wage statement at any time from
18 one year immediately preceding the filing of this lawsuit through the present.

19 e. The Waiting Time Class consists of all members of the Overtime Class, Meal
20 Period Class, and/or Rest Period Class, who are no longer employed by Defendants and
21 whose employment with Defendants ended at any time from three years immediately
22 preceding the filing of this lawsuit through the present.

23 17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
24 joinder of all members would be unfeasible and impracticable. The membership of the Classes is
25 unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than
26 fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via
27 Defendants' employment records.

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1 **18. Common Questions of Law and Fact Predominate/Well Defined Community**
2 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
3 situated employees, which predominate over questions affecting only individual members
4 including, without limitation:

- 5 i. Whether Defendants' timekeeping and payroll practices violate the
6 applicable Labor Code provisions including, but not limited to, Sections
7 510 and 1194 by requiring overtime work and not paying the Overtime
8 Class for said work according to California's overtime laws;
- 9 ii. Whether Defendants provided legally compliant meal periods to members
10 of the Meal Period Class;
- 11 iii. Whether Defendants authorized and permitted legally compliant rest
12 periods to members of the Rest Period Class;
- 13 iv. Whether Defendants furnished legally compliant wage statements to
14 members of the Wage Statement Class pursuant to Labor Code § 226;
- 15 v. Whether Defendants paid all wages due to members of the Waiting Time
16 Class at the time of separation of employment; and

17 **19. Predominance of Common Questions:** Common questions of law and fact
18 predominate over questions that affect only individual members of the Classes. The common
19 questions of law set forth above are numerous and substantial and stem from Defendants' policies
20 and/or practices applicable to each individual class member, such as Defendants' timekeeping,
21 overtime, wage statement, meal period, rest period, and final wage policies/practices. As such,
22 common questions predominate over individual questions concerning each class member's
23 showing as to his or her eligibility for recovery or as to the amount of his or her damages.

24 **20. Typicality:** Plaintiff's claims are typical of the claims of the Classes because
25 Plaintiff was employed by Defendants as a non-exempt employee in California during the
26 statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As
27 alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned minimum
28 wages and overtime wages, was subject to Defendants' uniform meal and rest period

1 policies/practices, was furnished with inaccurate wage statements, and was deprived of all final
2 wages upon his separation of employment from Defendants.

3 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
4 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
5 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of
6 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class
7 actions in state and federal courts in the past and are committed to vigorously prosecuting this
8 action on behalf of the members of the Classes.

9 22. **Superiority:** The Labor Code is broadly remedial and serves an important public
10 interest in establishing minimum working conditions and standards in California. These laws and
11 labor standards protect the average working employee from exploitation by employers who have
12 the responsibility to follow the laws and who may seek to take advantage of superior economic
13 and bargaining power in setting onerous terms and conditions of employment. The nature of this
14 action and the format of laws available to Plaintiff and members of the Classes make the class
15 action format a particularly efficient and appropriate procedure to redress the violations alleged
16 herein. If each employee were required to file an individual lawsuit, Defendants would necessarily
17 gain an unfair advantage, as they would be able to exploit and overwhelm the limited resources
18 of each individual plaintiff with their vastly superior financial and legal resources. Moreover,
19 requiring each member of the Classes to pursue an individual remedy would discourage the
20 assertion of lawful claims by employees who would be disinclined to file an action against their
21 former and/or current employer for real and justifiable fear of retaliation and permanent damages
22 to their careers at subsequent employment. Further, the prosecution of separate actions by
23 individual class members would create a substantial risk of inconsistent or varying verdicts or
24 adjudications with respect to the individual class members against Defendants herein; and which
25 would establish potentially incompatible standards of conduct for Defendants. Further, the claims
26 of the individual members of the Classes are not sufficiently large to warrant vigorous individual
27 prosecution considering all of the concomitant costs and expenses attending thereto. As such, the
28 Classes in Paragraph 16 are maintainable under Section 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION
FAILURE TO PAY OVERTIME WAGES
(AGAINST ALL DEFENDANTS)

23. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

24. At all times relevant herein, Defendants were required to properly compensate Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee “One and one-half (1 1/2) times the employee’s regular rate of pay” for work in excess of 8 hours per workday and/or in excess of 40 hours in any workweek, and for the first 8 hours on the seventh consecutive workday in a workweek. Wage Order 1, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of 12 hours in a workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff and Overtime Class members to work overtime hours but did not compensate them at one and one-half times (or two times) their regular rate of pay for such hours.

25. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, and attorneys’ fees and costs of suit according to California Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

26. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

27. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all their hourly non-exempt employees, including

1 Plaintiff and members of the Meal Period Class, with all required meal periods in accordance with
2 the mandates of the California Labor Code and Wage Order 1, for the reasons set forth in this
3 Complaint.

4 28. As a result, Defendants owe premium compensation for meal period violations,
5 including interest thereon, statutory penalties, and costs of suit, pursuant to Wage Order 1, Labor
6 Code §§ 226.7 and 512, Civil Code § 3287, Code of Civil Procedure § 1021.5, and Art. XV, § 1
7 of the California Constitution.

8 **THIRD CAUSE OF ACTION**

9 **REST PERIOD VIOLATIONS**

10 **(AGAINST ALL DEFENDANTS)**

11 29. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

12 30. Labor Code §§ 226.7 and 516, and Wage Order 1, § 12 establish the right of
13 employees to be authorized and permitted a rest period of at least ten (10) minutes for each four
14 (4) hour period worked, or major fraction thereof.

15 31. As alleged herein, Defendants failed to authorize and permit Plaintiff and Rest
16 Period Class members to take their legally mandated rest periods. Defendants also failed to
17 compensate Plaintiff and Rest Period Class members with a rest period premium for each rest
18 period to which they were entitled while working.

19 32. The foregoing violations create an entitlement to recovery by Plaintiff and Rest
20 Period Class members in a civil action for the unpaid amount of rest period premiums owing,
21 including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor
22 Code §§ 226.7, 516, 558; Code of Civil Procedure § 1021.5; Civil Code § 3287; and Art. XV, §
23 1 of the California Constitution.

24 **FOURTH CAUSE OF ACTION**

25 **WAGE STATEMENT VIOLATIONS**

26 **(AGAINST ALL DEFENDANTS)**

27 33. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

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34. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class with accurate and complete itemized wage statements that included, among other requirements, all wages earned, all meal and rest period premium wages earned, and total hours worked, in violation of Labor Code § 226.

35. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, the non-payment of all their overtime wages and meal and rest period premium wages, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

36. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit, pursuant to Labor Code §§ 226 and 226.3.

FIFTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

38. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee, or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

39. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including (but not limited to) unpaid overtime wages and unpaid meal and rest period premium wages.

40. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.

41. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and Waiting Time Class members their earned wages upon separation of employment results in a continued payment of daily wages up to 30 days from when the wages were due. Plaintiff and Waiting Time Class members are entitled to compensation per Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

42. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

43. Defendants have engaged, and continue to engage, in unfair and/or unlawful business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay Plaintiff and the Classes all overtime wages due, failing to provide meal periods or pay meal period premium wages, failure to authorize and permit rest periods or pay rest period premium wages, failing to furnish accurate and complete itemized wage statements, and failing to pay all earned wages at separation of employment.

44. Defendants' utilization of these unfair and/or unlawful business practices has deprived Plaintiff and members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

45. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself, and on behalf of the members of the Classes, seeks full restitution of monies as necessary and according to proof, to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

- a. Failing to pay Plaintiff and other aggrieved employees all overtime and/or double-time compensation earned, in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- b. Failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- c. Failing to authorize and permit all legally required rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- d. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code §§ 226 and 1198;
- e. Failing to pay all wages owed to Plaintiff and other aggrieved former employees at their separation of employment, in violation of Labor Code §§ 201-203;
- f. Failing to maintain accurate records (including but not limited to records of meal periods and actual hours worked) on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code §§ 1174 and 1198; and

49. On or about October 6, 2022, Plaintiff notified Defendant Circosta Iron & Metal Company, Inc., via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 48 (a)-(f) above. Now that sixty-five days have passed from Plaintiff's notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

50. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the

civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to recover under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 1198;
7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200, *et seq.*;
10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699, including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation

pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to Labor Code § 2699(f);

11. Prejudgment interest on all due and unpaid wages and other damages pursuant to California Labor Code §§ 218.6, 1194(a); Civil Code § 3287; and Art. XV, § 1 of the California Constitution;

12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226(e), 1194 *et seq.*, 2699(g), Code of Civil Procedure § 1021.5; and

13. For such other and further relief the Court may deem just and proper.

Date: December 12, 2022

Respectfully submitted,
ABRAMSON LABOR GROUP

By:



Tuvia Korobkin
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: December 12, 2022

Respectfully submitted,
ABRAMSON LABOR GROUP

By:



Tuvia Korobkin
Attorney for Plaintiff