

Zorik Mooradian, Esq., CSB No. 136636
zorik@mooradianlaw.com
Andrina G. Hanson, Esq., CSB No. 125067
andrina@mooradianlaw.com
Nanor C. Kamberian, Esq., CSB No. 316612
nanor@mooradianlaw.com
MOORADIAN LAW, APC
24007 Ventura Blvd., Suite 210
Calabasas, CA 91302
Telephone: (818) 487-1998 ▪ Facsimile: (888) 783-1030

Attorneys for Plaintiff Carlos Cruz, individually and on behalf of other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE – CIVIL COMPLEX DIVISION

CARLOS CRUZ, individually and on behalf
of other aggrieved current and former
employees,

Plaintiff(s),

v.

LEVEL 23 FAB INC.,
DOES 1 to 50,

Defendants.

Case No.: 30-2022-01295952-CU-OE-CXC

Dept. CX-103

**FIRST AMENDED COMPLAINT FOR
DAMAGES, PENALTIES AND OTHER
RELIEF:**

Individual Employment Law Claims

1. Failure to Pay Overtime
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Break Violations
5. Failure to Pay Wages for All Time Worked
6. Failure to Indemnify for Business Expenses
7. Taking Illegal Deductions from Wages
8. Failure to Provide Accurate Wage Statements
9. Failure to Timely Pay Wages Owed at Time of Termination/Separation
10. Failure to Provide Employment Records
11. Wrongful Termination

PAGA Claims

12. Violation of Labor Laws Giving Rise to an Action Under the PAGA

UCL Claim

13. Unfair Business Practices

Jury Trial Demanded

INTRODUCTORY ALLEGATIONS

1. Plaintiff herein is Carlos Cruz (also referred to as “Plaintiff” or “Mr. Cruz”). At all times herein, Mr. Cruz was a resident of the County of Orange, State of California.

2. From about November 2018 through February 18, 2022, Plaintiff Carlos Cruz was employed to work at LEVEL 23 FAB INC., located at 2117 South Anne Street, Santa Ana, California 92704 as a nonexempt employee.

3. The gravamen of this action is multiple illegal employment practices giving rise to the following:

- a. Causes of action for multiple violations of various wage/hour and related laws which deprived Mr. Cruz of employment benefits and rights mandated under California law.
- b. Wrongful termination in violation of Gov’t Code § 12945.2 in the Fair Employment and Housing Act (the FEHA).
- c. An action brought by Plaintiff on behalf of himself and other aggrieved employees under the Private Attorneys General Act (Labor Code § 2699 et. seq, aka PAGA) for violations of various California employment wage/hour laws.
- d. Unfair and unlawful business practice claims related to Defendants’ unlawful employment practices.

General Allegations re Defendants

4. Carlos Cruz brings this action against the following Defendants and said Defendants’ successors in interest, alter egos, and other persons/entities engaged with Defendants in a joint enterprise of providing services related to the conception, fabrication, and installation of metal products.

- a. Defendants LEVEL 23 FAB INC. and DOES 1 through 10 (hereinafter collectively referred to as LEVEL 23) were the employers/joint employers of Carlos Cruz and the other aggrieved employees referenced herein. LEVEL 23 FAB INC. is an active California corporation registered with the Secretary of State with an entity address located at 2117 South Anne Street, Santa Ana, California

92704, which is also its principal place of business.

b. At all relevant times, Defendants DOES 11 – 30 have been officers, directors and/or managing agents of Defendants LEVEL 23 FAB INC. and DOES 1 through 10. Said Defendants either directly participated in and/or encouraged the illegal conduct described herein and/or ratified the illegal conduct of employees/co-employees under their supervision.

c. Defendants DOES 31 through 50 are unidentified persons or entities who are legally responsible in some actionable manner for the illegal acts and omissions complained of herein. To the extent said Defendants are a business entity, the form of said Defendants is unknown at the present time.

5. Each of the above Defendants had authority to set LEVEL 23's policies, procedures, and practices as well as the authority to hire, transfer, promote, assign, reward, discipline the employees working for LEVEL 23 or to effectively recommend said actions. Additionally, said Defendants also had responsibility to act on employee grievances and/or to effectively recommend action on employee grievances. Said Defendants also had the responsibility to direct Plaintiff's daily work activities for LEVEL 23. The exercise of said authority and responsibility by said individual Defendants required the use of their independent judgment.

6. At all times herein and for many prior years, Defendants LEVEL 23 and DOES 1 through 50 either employed individuals in California and/or were involved in managing businesses and/or employees in California. During those years, said Defendants were provided with notifications from various governmental agencies as well as from various publications advising employers of the employment laws referenced herein. Accordingly, said Defendants knew the obligations LEVEL 23 owed to employees under California law. As such, Defendants' failures to comply with the applicable Labor Code sections, Industrial Wage Orders, regulations, and local laws as described herein were done willfully, intentionally and with knowledge of their illegality. Despite said knowledge, said Defendants deliberately approved, established and/or implemented company-wide policies, procedures and/or practices they knew violated California law as set forth herein and did so for the purpose of maximizing

1 the profits of LEVEL 23 as well as their own personal gain (monetary or otherwise) to the
2 illegal detriment of employees working at LEVEL 23, including Carlos Cruz.

3 7. Additionally, based on requirements set forth in the Labor Code and wage orders
4 applicable to Defendants' business, at all times herein, Defendants knew it was necessary to
5 possess, and Defendants did possess, a certain level of knowledge and skill in order to comply
6 with the labor and employment laws applicable to their area of business. Said knowledge was
7 vastly superior to that of Defendants' employees. Moreover, as set forth herein, Defendants'
8 employees depended on Defendants to know, record, and/or track certain information to ensure
9 California labor laws and/or employment laws were followed. Such things include the dates
10 and times worked by employees, when wages were owed to employees, the minimum and
11 overtime wages owed to employees, the number of rest breaks and meal breaks the employees
12 were entitled to, when rest breaks and meal breaks were required to be provided, the
13 information required to be accurately reported on wage statements, when employees should be
14 paid their final wages, what expenditures employees were required to be reimbursed, wage
15 deductions that were legal and illegal, etc.

16 8. LEVEL 23 and each DOE Defendant that was a business entity or organization at the
17 relevant times herein, was a privately-owned business authorized to do business in the State of
18 California. Additionally, said Defendants employed more than five (5) employees and were
19 engaged in interstate commerce within the meaning of California Gov. Code § 12926.

20 **Alter-Ego / Joint Enterprise Allegations**

21 9. All business entity Defendants herein are and at all times herein mentioned were the
22 alter-egos of each and every individually named Defendant and there exists, and at all times
23 herein mentioned has existed, a unity of interest and ownership between said Defendants such
24 that any separateness between them has ceased to exist in that the defendants have completely
25 controlled, dominated, managed, and operated the business entity defendants and have
26 intermingled the assets of each to suit their convenience. Further, the business entity
27 defendants are, and at all times mentioned herein were, mere shells, instrumentalities and
28 conduits through which Defendants carried out their business by its name while exercising

1 complete control and dominance of the business such that individuality or separateness of the
2 business entities did not exist. Additional facts supporting the existence of an alter ego and/or
3 joint enterprise relationship between Defendants include the following: Defendants
4 commingled funds and other assets, Defendants held themselves out as a single entity,
5 Defendants share equitable ownership, they use the same offices, Defendants have disregarded
6 corporate formalities, Defendants share the same directors and officers, etc.

7 10. All Defendants herein were also members of a joint enterprise. Each said Defendant
8 contributed skill, effort, knowledge, and/or money to achieve a common purpose, namely,
9 maximizing their respective and collective business profits as well as their individual profits.

10 **General Allegations re Fictitious DOE Defendants**

11 11. The facts linking the fictitiously designated Defendants with the causes of action
12 alleged herein and/or the true names and capacities, whether individual, corporate, partnership,
13 or otherwise of Defendants, DOES 1 through 50, are unknown to Plaintiff(s) at this time, who
14 therefore sue said Defendants by such fictitious names and will seek to amend this First
15 Amended Complaint to show their true names and/or capacities when ascertained. Said
16 Defendants are sued as employers, principals and/or agents, servants, and/or employees of said
17 employers or principals who were performing acts within the course and scope of their
18 authority and/or employment. Each and every Defendant designated herein as a "DOE" is
19 responsible in some actionable manner for the events and happenings referred to herein which
20 proximately caused the injuries, damages, losses and/or penalties as alleged herein.

21 **DEFA "Right to Sue" Notification Obtained**

22 12. Carlos Cruz timely filed a complaint against Defendants with the California Department
23 of Fair Employment and Housing ("DFEH"), alleging violations of the FEHA including Gov't.
24 Code § 12940.2.

25 13. Thereafter, Mr. Cruz received notification from the DFEH of his "Right to Sue" in the
26 courts of the State of California. Subsequently, Plaintiff served each known Defendant with the
27 Right to Sue Notice via United States Certified Mail, return receipt requested as required by
28 Gov. Code § 12962. As required by law, this first amended complaint is filed within one year

of that notification as required by law.

Defendants' Failure to Comply with Labor Code § 226 Requests

14. Plaintiff does not have copies of all of his records concerning his employment with Defendants and Defendants have failed to provide Plaintiff with copies/complete copies of his employment records (including work schedules, time sheets, rest break/meal break records, sick time records, business expense and reimbursement records and wage statements) even though such records pertain to Plaintiff's employment with Defendants and were requested from Defendants by Plaintiff pursuant to Labor Code § 226. Said records were also not produced by Defendants after a complaint was filed with the LWDA (and concurrently served on Defendants) in which it was alleged that said records had not been provided in accordance with Labor Code § 226. Plaintiff also does not have access to the employment records of other aggrieved employees. After Defendants have produced said employment records during discovery processes in this action, additional facts in support of each cause of action pled in this first amended complaint can be reasonably determined.

Tolling of the Statutes of Limitation

15. In violation of various sections of the Labor Code and/or the applicable Industrial Wage Order, Defendants failed to post the notices required under California law which the Legislature, Industrial Wage Commission and/or other authorized officials determined were necessary to reasonably place California employees on notice of their rights as employees under California law. Defendants' continuing failure to post the required notices was done for the purpose of keeping its employees uninformed of their rights as non-exempt employees under California law. Moreover, even though Defendants were served with requests for all records pertaining to Carlos Cruz's employment with LEVEL 23 to evaluate whether and/or the extent to which LEVEL 23 complied and/or failed to comply with California law, LEVEL 23 failed to timely and fully comply with such requests in violation of Labor Code § 226. Consequently, under the Delayed Discovery Rule, prior to the filing of this action, Mr. Cruz did not discover (and could not have reasonably discovered) all of the ways in which LEVEL 23 failed to comply with California wage and hour laws at issue in this action.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

7
8
9
0
1
2
3
4
5
6
7
8

8
9
0
1
2
3
4
5
6
7
8

- 2
3
4
5
6
7
8

1 must pay the employee no less than one and one-half times the employee's regular
2 rate of pay for all hours worked in excess of 40 hours.

3 **Defendants' Failure to Pay Plaintiff Legally Mandated Overtime Pay**

4 20. LEVEL 23 and each of them willfully, knowingly, and intentionally failed to calculate
5 and/or compensate Carlos Cruz (and other aggrieved employees encompassed by Plaintiff's
6 PAGA Notice Letter) the overtime wages mandated by Labor Code § 510 and/or applicable
7 Industrial Wage Order in at least the following ways: 1) LEVEL 23 unfairly rounded Mr. Cruz'
8 work hours and/or otherwise failed to include all the time Carlos Cruz (and other aggrieved
9 employees encompassed by Plaintiff's PAGA Notice Letter) worked in calculating the wages
10 that were owed to said employees each pay period, 2) LEVEL 23 did not include all the times
11 worked by said employees in calculating their wages (including time worked but not reported
12 as a punishment for clocking in late, on duty travel time, on duty rest breaks/meal periods,
13 training time, etc.). Thereby, said employees were denied overtime wages as required under
14 Labor Code § 510 as set forth above.

15 **Legal Remedies**

16 21. For all such acts or omissions that occurred during the statute of limitations period
17 applicable to this cause of action and as applicable under California law to the allegations made
18 in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards,
19 and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the
20 section entitled "Individual Causes of Action for Labor Law Violations."

21 **SECOND CAUSE OF ACTION -- FAILURE TO PAY MINIMUM WAGES BY**
22 **PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS**

23 22. Plaintiff hereby incorporates and fully realleges by this reference the allegations
24 contained in paragraphs 1 through 17 of this First Amended Complaint as though fully set forth
25 in this cause of action.

26 **Legally Mandated Minimum Wages**

27 23. At all times herein, pursuant to Labor Code § 1182.12, employers were required to pay
28 their employees at least the minimum hourly wage set forth in the Labor Code, the applicable

1 Industrial Wage Order or other applicable local law, ordinance and/or regulation for all time
2 worked by their employees.

3 **Defendants' Failure to Pay Plaintiff Legally Mandated Minimum Wages**

4 24. LEVEL 23 willfully, knowingly, and intentionally failed to calculate and/or compensate
5 Carlos Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter)
6 the minimum wages owed under Labor Code § 1182.12, the applicable wage order and/or local
7 regulation for all the hours worked for LEVEL 23, including but not limited to the following
8 times: 1) times that were unfairly rounded and/or otherwise not included in the times that
9 Carlos Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter)
10 worked in calculating the wages that were owed to said employees each pay period, 2) times
11 worked by said employees in calculating their wages (including time worked but not reported
12 as a punishment for clocking in late, on duty travel time, on duty rest breaks/meal periods,
13 training time, etc.).

14 **Legal Remedies**

15 25. For all such acts or omissions that occurred during the applicable statutes of limitations
16 period and as applicable under California law to the allegations made in this cause of action,
17 Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth
18 below in the Prayer for Damages, Awards and Other Relief under the section entitled
19 "Individual Causes of Action for Labor Law Violations."

20 **THIRD CAUSE OF ACTION -- FAILURE TO PROVIDE MEAL PERIODS OR**
21 **PREMIUM PAY BY PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS**

22 26. Plaintiff hereby incorporates and fully realleges by this reference the allegations
23 contained in paragraphs 1 through 17 of this First Amended Complaint as though fully set forth
24 in this cause of action.

25 **Legally Mandated Meal Periods**

26 27. At all times herein, pursuant to Labor Code § 512 and the applicable wage order, an
27 employer may not employ a non-exempt employee to work more than a five hours per day
28 without providing the employee with a thirty-minute meal break within the first five hours of

1 their workday.

2 28. Labor Code § 512 and the applicable wage order further provide that an employer may
3 not employ an employee for a work period of more than ten hours per day without providing
4 the employee with a second meal period of not less than 30 minutes.

5 29. California law further requires that for a meal period to qualify as a valid meal period
6 under the law, the meal period must be timely, off-duty, unrestricted, and uninterrupted.

7 **Defendants' Failure to Provide Legally Mandated Meal Periods**

8 30. Defendants either deprived Carlos Cruz (and other aggrieved employees encompassed
9 by Plaintiff's PAGA Notice Letter) of taking the meal period(s) required each workday under
10 California law, required them to take their meal periods after their fifth hour of work, restricted
11 their meal periods, required employees to remain on-duty during their meal periods, shortened
12 their 30-minute meal period, and/or interrupted their meal periods. As a result, the LEVEL 23
13 Defendants were required by Labor Code § 226.7 and/or the applicable IWC Wage Order to
14 pay said employees "premium pay", i.e., one (1) hour of pay at their regular rate of
15 compensation for each workday that a legally compliant meal period was not provided in
16 violation of California law.

17 31. Nevertheless, during the time that Carlos Cruz (and other aggrieved employees
18 encompassed by Plaintiff's PAGA Notice Letter) were employed by LEVEL 23, said
19 Defendants failed to provide meal periods in compliance with Labor Code § 512 in that said
20 employees (including Plaintiff) have either not been provided a meal period or, when they have
21 been provided a meal period, the meal periods have not been timely, have been interrupted,
22 and/or the employees have been required to remain on duty. Thereafter, LEVEL 23 also failed
23 to pay said employees (including Plaintiff) the premium pay required for the failure to provide
24 legally compliant meal periods.

25 **Legal Remedies**

26 32. For all such acts or omissions that occurred during the statute of limitations period
27 applicable to this cause of action and as applicable under California law to the allegations made
28 in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards,

1 and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the
2 section entitled “Individual Causes of Action for Labor Law Violations.”

3 **FOURTH CAUSE OF ACTION -- FAILURE TO PROVIDE REST PERIODS OR**
4 **PREMIUM PAY BY PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS**

5 33. Plaintiff hereby incorporates and fully realleges by this reference the allegations
6 contained in paragraphs 1 through 17 of this First Amended Complaint as though fully set forth
7 in this cause of action.

8 **Legally Mandated Rest Periods**

9 34. At all times herein, pursuant to the California Labor Code, the applicable Industrial
10 Wage Order, and/or applicable regulation, employers must authorize and permit non-exempt
11 employees to take paid rest periods at the rate of 10 minutes net rest time per four hours or
12 major fraction thereof (unless the total work time is less than 3 ½ hours). California law further
13 provides that so far as practical, the mandatory rest breaks must be provided in the middle of
14 each work period of the workday.

15 35. California law further requires that for a rest break to qualify as a valid rest break under
16 the law, the rest break must be paid and timely in addition to being 10-minutes in length
17 without restrictions, off-duty, and uninterrupted.

18 **Defendants’ Failure to Provide Legally Mandated Rest Breaks**

19 36. Carlos Cruz (and other aggrieved employees encompassed by Plaintiff’s PAGA Notice
20 Letter) regularly worked at least 6 hours a day, entitling them to two 10-minute rest breaks and
21 a third rest break after 10 hours of work, in the middle of each work period.

22 37. In violation of California law, Defendants deprived Carlos Cruz (and other aggrieved
23 employees encompassed by Plaintiff’s PAGA Notice Letter) of taking the rest periods required
24 under California law and, instead, required said employees to combine their rest breaks (even
25 though it was practical for employees to take separate rest breaks in the middle of each work
26 period). Defendants also failed to provide a third rest break when required under California
27 law.

28 38. In violation of Labor Code § 226.7, LEVEL 23 also failed to pay Carlos Cruz (and

1 other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) premium pay, i.e.,
2 one (1) hour of pay at their regular rate of compensation for each workday that a legally
3 compliant rest break was not provided.

4 **Legal Remedies**

5 39. For all such acts or omissions that occurred that occurred during the statute of
6 limitations period applicable to this cause of action and as applicable under California law to
7 the allegations made in this cause of action, Plaintiff is entitled to recover the other wages,
8 damages, penalties, awards, and remedies set forth below in the Prayer for Damages, Awards
9 and Other Relief under the section entitled "Individual Causes of Action for Labor Law
10 Violations."

11 **FIFTH CAUSE OF ACTION – FAILURE TO PAY WAGES/TIMELY PAY WAGES FOR** 12 **ALL TIME WORKED BY PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS**

13 40. Plaintiff hereby incorporates and fully realleges by this reference the allegations
14 contained in paragraphs 1 through 24, except for paragraphs 18 and 22, of this First Amended
15 Complaint as though fully set forth in this cause of action.

16 **Legal Duty to Pay Wages**

17 41. At all times herein, pursuant to Labor Code § 200, wages in California include all
18 amounts for labor performed by employees of every description, whether the amount is fixed or
19 ascertained by the standard of time, task, piece, commission basis, or other method of
20 calculation. Wages under Labor Code § 200 also include vested benefits such as premium pay
21 for missed, untimely, restricted and/or interrupted meal periods and/or rest breaks.

22 42. All non-exempt employees must be paid all wages earned within the timeframes set
23 forth in Labor Code § 204.

24 **Defendants' Failure to Pay All Earned Wages**

25 43. LEVEL 23 and each of them willfully, knowingly, and intentionally failed to pay Carlos
26 Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) for all
27 the time they actually worked and earned wages (including regular wages, overtime wages
28 and/or minimum wages) by failing to pay them for: 1) time worked off-the-clock, 2) on-duty

1 travel time, 3) unfairly rounding the punch-in/out times to the unjust benefit of Defendants; 4)
2 not including all the time worked in the time records used to calculate wages ; 5) for not paying
3 employees premium wages owed for missed, untimely, on-duty, short, interrupted and/or or
4 restricted meal periods and/or rest breaks; 6) not paying the additional wages owed due to the
5 failure to comply with minimum wage laws, 7) for not accurately calculating the times worked
6 by said employees and/or the wages owed to said employees, 8) for time worked but not
7 included in the calculations of the wages included in the calculations of the wages owed, 9) not
8 paying wages for on-duty travel time, 10) not paying the overtime pay mandated under
9 California law, etc. Additionally, Defendants took illegal deductions from the wages of Carlos
10 Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) such
11 that the employees were not paid all of the wages they were owed.

12 44. Since such wages were not paid, said wages were also not paid in accordance with the
13 time frames set forth in Labor Code § 204.

14 **Legal Remedies**

15 45. For all such acts or omissions that occurred during the statute of limitations period
16 applicable to this cause of action and as applicable under California law to the allegations made
17 in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards,
18 and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the
19 section entitled "Individual Causes of Action for Labor Law Violations."

20 **SIXTH CAUSE OF ACTION -- FAILURE TO INDEMNIFY FOR EXPENDITURES BY** 21 **PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS**

22 46. Plaintiff hereby incorporates and fully realleges by this reference the allegations
23 contained in paragraphs 1 through 17 of this First Amended Complaint as though fully set forth
24 in this cause of action.

25 **Statutory Requirement that Employees Be Indemnified for Expenditures**

26 47. At all times herein, pursuant to Labor Code § 2802(a), an employer is required to
27 indemnify employees for all necessary expenditures incurred by the employee in the discharge
28 of the employee's duties or in obedience to the directions of the employer.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

18

19
20
21
22
23

24
25

26

27

28

1 **Statutory Prohibition of Making Deductions from an Employee's Wages**

2 51. Pursuant to Labor Code § 221, it is unlawful for any employer to collect or deduct
3 monies from an employee's wages. The only exceptions to Labor Code § 221 are found in
4 Labor Code § 224 which states that deductions may be made when the employer is required or
5 empowered to do so by state or federal law or when a deduction is expressly authorized in
6 writing by the employee for purposes specified in Labor Code § 224.

7 **Illegal Deductions from Plaintiff's Wages**

8 52. In violation of Labor Code § 221, LEVEL 23 deducted the following deductions (or
9 authorized the following deductions) from the wages earned by Carlos Cruz (and other
10 aggrieved employees encompassed by Plaintiff's PAGA Notice Letter): Deductions for the
11 provision, cleaning and/or maintenance of uniforms. Said deductions were not authorized under
12 Labor Code § 224 or any other state or federal law. Such deductions are not one of the items
13 that an employee may authorize an employer to deduct from their earned wages.

14 **Legal Remedies**

15 53. For all such acts or omissions that occurred during the statute of limitations period
16 applicable to this cause of action and as applicable under California law to the allegations made
17 in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards,
18 and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the
19 section entitled "Individual Causes of Action for Labor Law Violations."

20 **EIGHTH CAUSE OF ACTION -- FAILURE TO PROVIDE ACCURATE WAGE**
21 **STATEMENTS BY PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS**

22 54. Plaintiff hereby incorporates and fully realleges by this reference the allegations
23 contained in paragraphs 1 through 53, except for paragraphs 18, 22, 26, 33, 40, 46 and 50, of
24 this First Amended Complaint as though fully set forth in this cause of action.

25 **Statutory Requirement to Provide Accurate Itemized Wage Statements**

26 55. At all times herein, pursuant to Labor Code § 226(a), each time an employer pays
27 wages to an employee, the employer is required to furnish the employee with an "accurate
28 itemized statement in writing" that itemizes the following: 1) gross wages earned; 2) total

1 hours worked; 3) the number of piece-rate units earned and the applicable piece rates; 4) all
2 deductions; 5) net wages earned; 6) the inclusive dates for which the employee is being paid;
3 7) name of the employee and only the last 4 digits of his social security number or employee
4 I.D. number; 8) the name and address of the legal entity of the employer; 9) all hourly rates in
5 effect to the pay period and corresponding number of hours worked at each hourly rate.

6 **Failure to Provide Accurate Itemized Wage Statements**

7 56. LEVEL 23 violated Labor Code §226(a) in all of the following ways with respect to
8 Carlos Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter):

- 9 a. The wage statements do not accurately record the total hours worked and the
10 gross/net wages earned for:
- 11 i. Premium pay wages for missed, untimely, restricted, interrupted and/or
 - 12 short rest breaks as referenced above,
 - 13 ii. Premium pay wages for missed, untimely, restricted, interrupted and/or
 - 14 short meal periods as referenced above,
 - 15 iii. Regular and/or overtime wages for time worked but not reported on
 - 16 Employees' time records,
 - 17 iv. Regular and/or overtime wages for on-duty travel time,
 - 18 v. Regular and/or overtime wages for on-duty meal periods,
 - 19 vi. Owed wages due to the failure to comply with minimum wages laws,
 - 20 vii. Owed wages due to the illegal deductions taken from wages,
- 21 b. LEVEL 23's wage statements do not set forth the correct address of the legal
22 entity that employed Employees. The wage statements show an address in
23 Redondo Beach when the correct address is an address in Santa Ana.

24 57. As a result of the above statutory deficiencies in the wage statements provided to Carlos
25 Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter), said
26 employees were not reasonably able to promptly and easily determine from the wage
27 statements alone one or more of the following items of information:

- 28 a. The accurate amount of gross wages earned and paid for the pay period,

- b. The accurate amount of net wages earned and paid for the pay period,
- c. The accurate total number of hours worked,
- d. The accurate deductions that were made and/or the deductions made from the gross wages to determine the net wages paid during the pay period,
- e. The accurate name and address of the legal entity of the employer.

58. A reasonable person would also have been unable to readily discern the above information without reference to other documents or information.

Legal Remedies

59. For all such acts or omissions that occurred during the statute of limitations period applicable to this cause of action and as applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled "Individual Causes of Action for Labor Law Violations."

NINTH CAUSE OF ACTION FOR FAILURE TO PAY WAGES OWED AT TIME OF SEPARATION BY PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS

60. Plaintiff hereby incorporates and fully realleges by this reference the allegations contained in paragraphs 1 through 59, except for paragraphs 18, 22, 26, 33, 40, 46, 50 and 54, of this First Amended Complaint as though fully set forth in this cause of action.

Mandated Payment of Wages Owed at Time of Separation

61. Pursuant to Labor Code § 201, employers are required to immediately pay employees all wages due at the time employees are discharged. Additionally, pursuant to Labor Code § 202, if an employee gives at least 72-hours previous notice of their intent to quit/retire, the employer is required to pay the employee all wages due the time the employee quits/retires. Pursuant to Labor Code § 202, if an employee does not give 72-hours previous notice of their intention to quit/retire, the employer is required to pay the employee all wages due the employee within 72-hours of the time the employee leaves employment.

Defendants' Failure to Timely Pay

Wages Owed at the Time of Separation

62. In violation of Labor Code §§ 201-202, Carlos Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) were not timely paid all wages due them at the time of their separation from employment even though Defendants knew such payment was owed and it was within Defendants' control to make such payment in accordance with Labor Code §§ 201-202. With respect to Plaintiff Carlos Cruz, he was terminated/resigned on or about February 18, 2022 but was not paid all the wages owed to him at that time including unpaid wages for: 1) time worked off-the-clock, 2) on-duty travel time, 3) unfairly rounding the punch-in/out times to the unjust benefit of Defendants; 4) not including all the time worked in the time records used to calculate wages; 5) premium wages owed for missed, untimely, on-duty, short, interrupted and/or or restricted meal periods and/or rest breaks; 6) the failure to comply with minimum wage laws, 7) not accurately calculating the times worked by employees and/or the wages owed to employees, 8) time worked but not included in the calculations of the wages included in the calculations of the wages owed, 9) on-duty travel time, 10) not paying the overtime pay mandated under California law, etc. Additionally, Defendants took illegal deductions from the wages of Carlos Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) such that said employees were not paid all of the wages they were owed at the time of separation from employment. Defendants thereby willfully violated Labor Code §§ 201-202 and the applicable IWC Wage Order(s).

63. Because Carlos Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) were not paid all the wages owed to them in accordance with the timeframes set forth in Labor Code §§ 201-202, pursuant to Labor Code § 203, LEVEL 23 were required to pay Carlos Cruz (and other aggrieved employees encompassed by Plaintiff's PAGA Notice Letter) their regular wages from the due date thereof at the same rate until paid, up to a maximum of thirty (30) days of pay. However, not only did Defendants fail to pay the wages owed said employees (including Plaintiff) at the time of their separation from employment, LEVEL 23, Defendants also failed to provide said employees (including Plaintiff) with the continuous wages mandated under Labor Code § 203.

Legal Remedies

64. For all such acts or omissions that occurred during the statute of limitations period applicable to this cause of action and as applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled "Individual Causes of Action for Labor Law Violations."

TENTH CAUSE OF ACTION -- FAILURE TO PROVIDE EMPLOYMENT RECORDS
BY PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS

65. Plaintiff hereby incorporates and fully realleges by this reference the allegations contained in paragraphs 1 through 17 of this First Amended Complaint as though fully set forth in this cause of action.

Statutory Requirement to Provide Employment Records

66. At all times herein, pursuant to Labor Code § 226(b), employers are required to afford their current and former employees the right to inspect or copy all records pertaining to their employment upon reasonable notice.

67. Pursuant to Labor Code § 226(c), an employer who receives a written or oral request to inspect or copy records must comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.

68. Pursuant to Labor Code § 226(b), if the employer provides copies of the records, the actual cost of reproduction may be charged to the employee.

Defendants' Failure to Provide Employment Records to Plaintiff

69. Pursuant to Labor Code §226(b), Carlos Cruz (via written correspondence transmitted via certified letter with return receipt) requested all records pertaining to Plaintiff's employment with LEVEL 23.

70. LEVEL 23 received the request and produced very limited records but failed to provide all of Plaintiff's employment records. As a result, LEVEL 23 prevented Mr. Cruz from discovering all facts and/or theories of liability which may support the allegations in this action.

Legal Remedies

71. As applicable under California law to the allegations made in this cause of action,

1 Plaintiff is entitled to recover the damages, penalties, awards and remedies set forth below in
2 the Prayer for Damages, Awards and Other Relief under the section entitled “Individual Causes
3 of Action for Labor Law Violations.”

4 **ELEVENTH CAUSE OF ACTION – WRONGFUL TERMINATION AGAINST ALL**
5 **DEFENDANTS**

6 72. Plaintiff hereby incorporates and fully realleges by this reference the allegations
7 contained in paragraphs 1 through 17 of this First Amended Complaint as though fully set forth
8 in this cause of action.

9 73. Pursuant to Government Code § 12945.2, it is unlawful for an employer like LEVEL 23
10 who employ more than five people to refuse to allow an employee who has worked with the
11 employer more than 12 months and more than 1250 hours in the last 12 months, to take up to a
12 total of 12 workweeks of medical leave due to a serious health condition. It is also unlawful
13 (and a violation of public policy) for an employer to discriminate, retaliate, or discharge an
14 employee for exercising (or attempting to exercise) their right to take such medical leave.

15 **Plaintiff’s Wrongful Termination**

16 74. During the 12-month period before January 13, 2022, Carlos Cruz had provided LEVEL
17 23 with at least 1,250 hours of work.

18 75. On January 13, 2022, Carlos Cruz suffered a serious health condition as defined by
19 Gov’t Code § 12945.2. He suffered a serious injury to his neck, back, shoulder, elbow, and
20 wrist. That same day he saw a doctor who examined him, referred him for OT/PT, and put him
21 on modified work restrictions. The injuries prevented Mr. Cruz from performing his work
22 duties as a welder.

23 76. On February 8, 2022 (after seeing the doctor the previous day) Mr. Cruz went to
24 LEVEL 23 and gave a copy of the doctor’s report to the HR Manager, Kiersten Parrales. The
25 report substantiated his injuries and demonstrated that he was not getting better. In fact, the
26 report documented that Mr. Cruz was experiencing numbness and tingling in his arm. He was
27 also prescribed medication for pain, inflammation, and muscle spasms. According to the report
28 given to the HR manager, Mr. Cruz had been given a follow-up appointment with another

1 doctor on March 2, 2022.

2 77. Mr. Cruz told LEVEL 23's HR Manager that he wanted to stay home due to the
3 ongoing and significant amount of pain and physical limitations that he was still experiencing.
4 The HR Manager told Mr. Cruz that if he stayed home, he would not be paid any wages. Mr.
5 Cruz told the HR Manager that he preferred to stay home and was agreeable to not receiving
6 any wages.

7 78. On February 18, 2022, Mr. Cruz returned to Level 23 Fab Inc. to collect the wages
8 LEVEL 23 owed him for the few days that he had reported to work but could not do physical
9 labor. At that time, Mr. Cruz was asked to resign. When he refused, he was told that he was
10 being fired.

11 79. From the onset of Mr. Cruz' serious health condition (1/13/22) through the date that he
12 was fired (2/18/22), he suffered serious physical injuries and impairment requiring continuing
13 treatment and supervision of a doctor. This continued through the entire twelve workweek
14 period applicable to medical leave laws in the State of California.

15 **Legal Remedies**

16 80. As applicable under California law based on the allegations made in this cause of
17 action, Plaintiff is entitled to recover non-economic and economic damages set forth below in
18 the Prayer for Damages, Awards and Other Relief under the section entitled "Wrongful
19 Termination Cause of Action."

20 **TWELFTH CAUSE OF ACTION -- VIOLATION OF LABOR LAWS GIVING RISE TO** 21 **AN ACTION PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT (PAGA) -** 22 **- BY CARLOS CRUZ ON BEHALF OF HIMSELF AND OTHER CURRENT AND** 23 **FORMER AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**

24 81. Plaintiff hereby incorporates and fully realleges by this reference the allegations
25 contained in paragraphs 1 through 64, except for paragraphs 18, 22, 26, 33, 40, 46, 50, 54 and
26 60, of this First Amended Complaint as though fully set forth in this cause of action.

27 82. Plaintiff brings this cause of action pursuant to the Private Attorneys General Act
28 (Labor Code §2699) on behalf of himself and all aggrieved employees as described as follows:

1 current and former employees of LEVEL 23 during the applicable statutory period who
2 performed non-exempt work for said entities/individuals and were either: 1) classified as a
3 non-exempt employee or 2) should have been classified as a non-exempt employee.

4 **PAGA Claim Filed with the LWDA**

5 83. Plaintiff has exhausted all statutory prerequisites to filing a Private Attorneys General
6 Action in this matter by providing written notice to the Labor and Workforce Development
7 Agency on or about October 4, 2022, that Defendants had violated and were continuing to
8 violate provisions of the California Labor Code and/or the applicable Industrial Wage Order
9 (IWO). Pursuant to the PAGA, said filing resulted in a tolling of the applicable statute of
10 limitation(s).

11 84. At least sixty-five days have passed since Plaintiff provided written notice (by online
12 submission to the Labor and Workforce Development Agency and by certified mail to
13 Defendants) on October 4, 2022, that Defendants had violated and continued to violate
14 provisions of the California Labor Code and/or applicable IWO. Said filing resulted in a tolling
15 of the applicable statute of limitation(s) with respect to the alleged PAGA violations. Plaintiff
16 has not received notice from the LWDA that it intends to prosecute an action against
17 Defendants. Therefore, as statutorily permitted by Labor Code § 2699.3, Plaintiff has the right
18 to commence a Private Attorneys General Action (PAGA) pursuant to Labor Code § 2699.

19 85. At least sixty-five days have passed since Plaintiff provided written notice (by online
20 submission to the Labor and Workforce Development Agency and by certified mail to
21 Defendants) on November 28, 2022, that Defendants had violated and continued to violate
22 additional provisions of the California Labor Code and/or applicable IWO. Said amended
23 filing resulted in a tolling of the applicable statute of limitation(s) with respect to the PAGA
24 violations alleged in said amended PAGA filing. Plaintiff has not received notice from the
25 LWDA that it intends to prosecute an action against Defendants for said additional. Therefore,
26 as statutorily permitted by Labor Code § 2699.3, Plaintiff has the right to commence a Private
27 Attorneys General Action (PAGA) pursuant to Labor Code § 2699.

1 **COUNT ONE -- MISCLASSIFICATION OF EMPLOYEES AS EXEMPT**
2 **EMPLOYEES**

3 86. Plaintiff hereby incorporates and fully realleges by this reference the allegations
4 contained in paragraphs 1 through 17 and 82 through 84 of this First Amended Complaint as
5 though fully set forth in this count.

6 **Non-Exempt Status of PAGA Employees**

7 87. During the applicable statutory period, the aggrieved employees encompassed by
8 Plaintiff's PAGA Notice Letter were non-exempt employees of LEVEL 23 for the following
9 reasons:

- 10 a. They were either not paid a salary or the salary they were paid was not at least
11 twice the minimum wage for full-time employment.
- 12 b. Their primary duties did not consist of administrative, executive, or professional
13 tasks.
- 14 c. Their job duties did not involve the use of discretion or independent judgment.
- 15 d. Other reasons set forth in the applicable Industrial Wage Order.

16 **Misclassification of PAGA Employees**

17 88. Misclassifying said employees as exempt employees was done willfully by Defendants
18 for the purpose of maximizing the business profits of LEVEL 23 and/or the personal assets of
19 LEVEL 23's owners, officers, directors and/or managing agents to the illegal detriment of said
20 employees. This was accomplished by depriving said employees of employment benefits that
21 employers owe to non-exempt employees (but not exempt employees) under California law
22 including the following: overtime wages, legally compliant rest breaks and meal periods, etc.

23 **Legal Remedies**

24 89. As applicable under California law, Plaintiff (on behalf of the LWDA and other
25 aggrieved employees) is entitled to recover the penalties, awards and remedies set forth below
26 in the Prayer for Damages, Awards and Other Relief under the section entitled "PAGA Cause
27 of Action."

1 **COUNT TWO – FAILURE TO PAY OVERTIME WAGES**

2 90. Plaintiff hereby incorporates and fully realleges by this reference the allegations
3 contained in paragraphs 1 through 17, 19 through 20, and 82 through 84 of this First Amended
4 Complaint as though fully set forth in this count.

5 **Legal Remedies**

6 91. As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and
7 other aggrieved employees) is entitled to recover the penalties, awards and remedies set forth
8 below in the Prayer for Damages, Awards and Other Relief under the section entitled “PAGA
9 Cause of Action.”

10 **COUNT THREE – FAILURE TO PAY MINIMUM WAGES**

11 92. Plaintiff hereby incorporates and fully realleges by this reference the allegations
12 contained in paragraphs 1 through 17, 23 through 24, and 82 through 84 of this First Amended
13 Complaint as though fully set forth in this count.

14 **Legal Remedies**

15 93. As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and
16 other aggrieved employees) is entitled to recover the penalties, awards, and remedies set forth
17 below in the Prayer for Damages, Awards and Other Relief under the section entitled “PAGA
18 Cause of Action.”

19 **COUNT FOUR – FAILURE TO PROVIDE MEAL PERIODS/PREMIUM PAY**

20 94. Plaintiff hereby incorporates and fully realleges by this reference the allegations
21 contained in paragraphs 1 through 17, 27 through 31, and 82 through 84 of this First Amended
22 Complaint as though fully set forth in this count.

23 **Legal Remedies**

24 95. As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and other
25 aggrieved employees) is entitled to recover the penalties, awards and remedies set forth below in
26 the Prayer for Damages, Awards and Other Relief under the section entitled “PAGA Cause of
27 Action.”
28

1 **COUNT FIVE – FAILURE TO PROVIDE REST BREAKS/PREMIUM PAY**

2 96. Plaintiff hereby incorporates and fully realleges by this reference the allegations
3 contained in paragraphs 1 through 17, 34 through 38, 82 through 84 of this First Amended
4 Complaint as though fully set forth in this count.

5 **Legal Remedies**

6 97. As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and
7 other aggrieved employees) is entitled to recover the damages, penalties, awards, and remedies
8 set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled
9 “PAGA Cause of Action.”

10 **COUNT SIX - FAILURE TO PROVIDE SEATING**

11 98. Plaintiff hereby incorporates and fully realleges by this reference the allegations
12 contained in paragraphs 1 through 17 and 82 through 84 of this First Amended Complaint as
13 though fully set forth in this count.

14 **Mandated Seating**

15 99. At all times herein, pursuant to the applicable Industrial Wage Order (IWO), LEVEL 23
16 was required to provide Carlos Cruz and other aggrieved employees encompassed by Plaintiff’s
17 PAGA Notice Letter with seating as follows: 1) Suitable seating when the nature of the
18 Employees’ work reasonably permits use of seats and 2) Suitable seating in reasonable
19 proximity to Employee’s work areas for use by Employees when a) they are not engaged in
20 active duty, b) their work requires standing and c) such seats would not interfere with the
21 performance of their duties.

22 **Defendants’ Failure to Provide Mandated Seating**

23 100. LEVEL 23 failed to provide Carlos Cruz (and other aggrieved employees encompassed
24 by Plaintiff’s PAGA Notice Letter) with the legally required seating as set forth above.

25 **Legal Remedies**

26 As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and other
27 aggrieved employees) seeks to recover the penalties, awards and remedies set forth below in
28 the Prayer for Damages, Awards and Other Relief under the section entitled “PAGA Cause of

1 Action.”

2 **COUNT SEVEN – FAILING TO PAY/TIMELY PAY**

3 **WAGES FOR ALL TIME WORKED**

4 101. Plaintiff hereby incorporates and fully realleges by this reference the allegations
5 contained in paragraphs 1 through 38, 41 through 44, and 82 through 85 of this First Amended
6 Complaint as though fully set forth in this count.

7 **Legal Remedies**

8 102. As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and
9 other aggrieved employees) is entitled to recover the penalties, awards and remedies set forth
10 below in the Prayer for Damages, Awards and Other Relief under the section entitled “PAGA
11 Cause of Action.”

12 **COUNT EIGHT – FAILURE TO INDEMNIFY NECESSARY EXPENDITURES**

13 103. Plaintiff hereby incorporates and fully realleges by this reference the allegations
14 contained in paragraphs 1 through 17, 47 through 48, and 82 through 85 of this First Amended
15 Complaint as though fully set forth in this count.

16 **Legal Remedies**

17 104. As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and other
18 aggrieved employees) seeks to recover the penalties, awards and remedies set forth below in the
19 Prayer for Damages, Awards and Other Relief under the section entitled “PAGA Cause of
20 Action.”

21 **COUNT NINE – FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

22 105. Plaintiff hereby incorporates and fully realleges by this reference the allegations
23 contained in paragraphs 1 through 58 and 82 through 85 of this First Amended Complaint as
24 though fully set forth in this count.

25 **Legal Remedies**

26 As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and other
27 aggrieved employees) seeks to recover the penalties, awards and remedies set forth below in the
28 Prayer for Damages, Awards and Other Relief under the section entitled “PAGA Cause of

1 Action.”

2 106.

3 **COUNT TEN – FAILURE TO PAY WAGES OWED AT SEPARATION**

4 107. Plaintiff hereby incorporates and fully realleges by this reference the allegations
5 contained in paragraphs 1 through 63 and 82 through 85 of this First Complaint as though fully
6 set forth in this count.

7 **Legal Remedies**

8 108. As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and other
9 aggrieved employees) seeks to recover the penalties, awards and remedies set forth below in the
10 Prayer for Damages, Awards and Other Relief under the section entitled “PAGA Cause of
11 Action.”

12 **COUNT ELEVEN – ILLEGAL DEDUCTIONS**

13 109. Plaintiff hereby incorporates and fully realleges by this reference the allegations
14 contained in paragraphs 1 through 17, 51 through 52, and 82 through 85 of this First Amended
15 Complaint as though fully set forth in this count.

16 **Legal Remedies**

17 110. As applicable under California law, Plaintiff (on behalf of the LWDA, himself, and other
18 aggrieved employees) seeks to recover the penalties, awards and remedies set forth below in the
19 Prayer for Damages, Awards and Other Relief under the section entitled “PAGA Cause of
20 Action.”

21 **THIRTEENTH CAUSE OF ACTION – UNFAIR/ILLEGAL BUSINESS PRACTICES BY**
22 **PLAINTIFF CARLOS CRUZ AGAINST ALL DEFENDANTS**

23 111. Plaintiff hereby incorporates and fully realleges by this reference the allegations
24 contained in paragraphs 1 through 110, except for paragraphs 18, 22, 26, 33, 40, 46, 50, 54, 60,
25 65, 72 and 81, of this First Amended Complaint as though fully set forth in this cause of action.

26 112. Business and Professions Code §17200 provides in pertinent part “. . . [U]nfair
27 competition shall mean and include any unlawful, unfair or fraudulent business act or practice
28”

1 113. Business and Professions Code §17205 provides that unless otherwise expressly
2 provided, the remedies or penalties provided for unfair competition “are cumulative to each
3 other and to the remedies or penalties available under all other laws of this state.”

4 114. Business and Professions Code §17204 provides that an action for any relief from unfair
5 competition may be prosecuted by any person who has suffered injury in fact and has lost
6 money or property as a result of such unfair competition.

7 115. LEVEL 23 has engaged in unlawful business acts or practices, including those set forth
8 in the preceding paragraphs of the First Amended Complaint, and, thereby, have wrongfully
9 deprived Plaintiff Carlos Cruz of the minimum working standards and conditions due Plaintiff
10 under the California Labor Code, the Code of Regulations and/or applicable IWC Wage
11 Order(s), as set forth herein.

12 116. LEVEL 23 has also engaged in unfair business practices in California by practicing,
13 employing, and utilizing the employment practices outlined in the preceding paragraphs,
14 including, but not limited to:

- 15 a. Requiring employees (including Plaintiff) to perform labor without paying/timely
16 paying them the requisite compensation (including regular wages, overtime
17 wages, minimum wages),
- 18 b. Not providing employees (including Plaintiff) with the requisite meal periods
19 and/or rest breaks or the applicable premium pay,
- 20 c. Not indemnifying employees (including Plaintiff) for necessary business
21 expenditures,
- 22 d. Taking illegal deductions from the employees’ wage statements (including
23 Plaintiff’s wage statements.
- 24 e. Not paying/timely paying employees (including Plaintiff) all the wages owed
25 them at the time of their separation from employment,
- 26 f. Not providing employees (including Plaintiff) with accurate wage statements.

27 117. LEVEL 23’s use of such illegal and unfair practices constitutes an unfair business
28 practice, unfair competition and provides an unfair advantage over said Defendants’

competitors who comply with the above-referenced employment laws and regulations.

118. LEVEL 23 has engaged in said unlawful and unfair business practices on a continuous basis for many years up until the present time.

Legal Remedies

119. As a result of said unlawful and/or unfair business practices resulting in unfair competition prohibited by Business and Professions Code § 17200, Plaintiff has suffered injury in fact and has lost money and/or property as described herein.

120. As a direct and proximate result of LEVEL 23' unlawful and/or unfair business practices in violation of Business and Professions Code § 17200, LEVEL 23 are required to pay restitution, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by said Defendants by means of the unfair practices complained of herein.

121. Further, if said Defendants are not enjoined from the conduct set forth above, said Defendants will continue to practice, employ, and utilize the employment practices outlined in the preceding paragraphs. Therefore, the court is requested to issue a permanent injunction prohibiting Defendants from engaging in the foregoing conduct.

122. As necessary, the court is requested to appoint a receiver to establish the total monetary relief owed by said Defendants.

123. LEVEL 23 is also subject to an award of attorneys' fees and costs of suit on this cause of action pursuant to Code of Civil Procedure §1021.5.

124. As applicable under California law, the other damages, penalties, awards, and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled "Unfair Business Practices Cause of Action" are also being sought by way of this cause of action.

PRAYER FOR DAMAGES, AWARDS AND OTHER RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, in an amount within the jurisdiction of the above-entitled court and within the applicable statutes of limitation as follows:

Individual Causes of Action for Labor Law Violations

1. Unpaid/underpaid wages or other pay (including but not limited to regular wages, overtime wages and/or minimum wages) owed to Plaintiff under the Labor Code and/or applicable Industrial Wage Order in the amount of \$100,000.
2. All premium pay/wages owed to Plaintiff under the Labor Code, applicable Industrial Wage Order(s) and/or local law/ordinance for untimely, missed, or interrupted meal periods and/or rest breaks in the amount of \$50,000.
3. Continuing wages to the fullest extent permitted by Labor Code § 203 in the amount of \$4,000.
4. Reimbursement of expenditures and illegal deductions to the fullest extent permitted under the Labor Code and/or applicable Industrial Wage Order(s) in the amount of \$15,000.
5. All statutory penalties which the Labor Code permits an individual employee to recover from an employer for violation(s) of the Labor Code, applicable Industrial Wage Order(s) and/or applicable local laws/ordinances which were violated with respect to Plaintiff's employment as alleged herein, in the amount of \$20,000.
6. All liquidated damages which the Labor Code permits an individual employee to recover from an employer for violation(s) of the Labor Code, applicable Industrial Wage Order(s) and/or applicable local laws/ordinances which were violated with respect to Plaintiff's employment as alleged herein, in the amount of \$20,000.
7. Any and all other economic and consequential damages to the fullest extent recoverable under California law in the amount of \$50,000, according to proof.
8. All equitable relief permitted under California law, according to proof.
9. Attorney's fees to the fullest extent permitted under California law, according to proof;
10. Costs to the fullest extent permitted under California law.
11. Prejudgment interest to the fullest extent permitted under California law.
12. Post-judgment interest, as applicable, and to the fullest extent permitted under California law.

13. For such further relief as the court deems just and proper as permitted under California law.

Wrongful Termination Cause of Action

1. Economic damages resulting from Plaintiff's wrongful termination in the amount of \$200,000.
2. Non-economic damages resulting from Plaintiff's wrongful termination in the amount of \$500,000.
3. All equitable relief permitted under California law, according to proof.
4. Attorney's fees to the fullest extent permitted under California law, according to proof;
5. Costs to the fullest extent permitted under California law.
6. Prejudgment interest to the fullest extent permitted under California law.
7. Post-judgment interest, as applicable, and to the fullest extent under California law.
8. For such further relief as the court deems just and proper.

PAGA Cause of Action

1. All civil penalties and/or other penalties and remedies recoverable under the PAGA for violations of the Labor Code, applicable Industrial Wage Order(s) and/or applicable regulation, local law/ordinance, in the amount of \$1,500,000 To the extent required by the PAGA, the civil penalties recovered on behalf of all aggrieved employees shall be distributed seventy-five percent (75%) to the LWDA and the remaining twenty-five percent (25%) distributed to Plaintiff and all similarly aggrieved employees.
2. Attorneys' fees and/or costs to the full extent permitted under the PAGA, the Labor Code, the applicable Industrial Wage Order and/or other applicable California law.
3. Prejudgment interest to the fullest extent permitted under California law.
4. Post-judgment interest if applicable, to the fullest extent permitted by California law.
5. For such further relief as the court deems just and proper.

Unfair Business Practices Cause of Action

1. Full restitution of all monies withheld, acquired and/or converted by Defendants by means of unlawful and/or unfair business practices prohibited by Bus. & Prof. Code §

- 1 17200, in the amount of \$200,000
- 2 2. A preliminary and permanent injunction prohibiting Defendants from engaging in the
- 3 unlawful and/or unfair employment practices complained of herein.
- 4 3. The appointment of a receiver, as necessary, to establish the total monetary relief sought
- 5 from Defendants.
- 6 4. Attorneys' fees and costs to the fullest extent permitted under California law.
- 7 5. Prejudgment interest to the fullest extent permitted under California law.
- 8 6. Post-judgment interest if applicable, to the fullest extent permitted under California law.
- 9 7. For such further relief as the court deems just and proper.

10

11 DATED: February 1, 2023

MOORADIAN LAW, APC

12 

13 By: _____

14 Zorik Mooradian

15 Andrina G. Hanson

16 Nanor C. Kamberian

Attorneys for Plaintiff Carlos Cruz

17 **DEMAND FOR A JURY TRIAL**

18 Plaintiff Carlos Cruz hereby demands a jury trial in the within matter.

19 DATED: February 1, 2023

MOORADIAN LAW, APC

20 

21 By: _____

22 Zorik Mooradian

23 Andrina G. Hanson

24 Nanor C. Kamberian

Attorney for Plaintiff Carlos Cruz