

12/01/2022 at 04:35:43 PM
Clerk of the Superior Court
By Mariejo Guyot, Deputy Clerk

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
KOUL LAW FIRM
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010
Telephone: (213) 761-5484
Facsimile: (818) 561-3938

Sahag Majarian, Esq. SBN 146621
sahagii@aol.com
Garen Majarian, Esq. SBN 334104
garen@majarianlawgroup.com
MAJARIAN LAW GROUP, APC
18250 Ventura Blvd.
Tarzana, CA 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Attorneys for Plaintiff,
ANDY MONTANEZ,
and all putative class members

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ANDY MONTANEZ, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

PROFESSIONAL MAINTENANCE
SYSTEMS, INC., a California Corporation,
and DOES 1-50, inclusive,

Defendant.

Case No.: 37-2022-00048199-CU-OE-CTL

**CLASS ACTION COMPLAINT
FOR:**

- 1. Failure to Pay For All Hours Worked, Including Overtime Hours Worked**
- 2. Failure to Pay Wages Due Upon Termination**
- 3. Failure to Provide Rest Breaks**
- 4. Failure to Provide Uninterrupted Meal Breaks**
- 5. Failure to Reimburse For Required Business Expenses**
- 6. Failure to Provide Accurate Itemized Wage Statements**
- 7. Unlawful Business Practices Bus & Prof. Code §17200**

JURY TRIAL DEMANDED

1 Plaintiff ANDY MONTANEZ, individually, and on behalf of all others similarly
2 situated (collectively “Plaintiffs”), alleges as follows:

3 NATURE OF THE ACTION

4 1. This is an employment class action on behalf of over 100 hourly, non-exempt
5 employees against their employer for violations of numerous wage and hour laws. Plaintiff
6 brings this employment class action complaint on behalf of himself, and all others similarly
7 situated against PROFESSIONAL MAINTENANCE SYSTEMS, INC., and the other
8 Defendant DOES 1-50, inclusive, (hereafter collectively “Defendant” or “Defendants”).

9 2. Defendant PROFESSIONAL MAINTENANCE SYSTEMS, INC. provides
10 professional maintenance and janitorial services to commercial customers. Plaintiff ANDY
11 MONTANEZ worked as an hourly, non-exempt employee until October 28, 2022. Plaintiff
12 and the proposed class earn at or near minimum wage.

13 3. As described further below, Defendant has violated the California Labor Code
14 by (1) failing to pay for all hours worked including overtime hours worked (§204, 206,
15 206.5, 207, 210, 216, 218, 218.6, 221, 223, 510, 558, 1194, 1197, 1197.1, 1198); (2) failing
16 to pay wages due upon termination (§201, 202, 203, 256); (3) failing to provide rest breaks
17 (§226, 226.7, 512, 558, 1198); (4) failing to provide uninterrupted meal breaks (§226,
18 226.7, 512, 558, 1198); (5) failing to reimburse for required business expenses (§1198,
19 2802); (6) failing to provide accurate wage statements and maintain accurate records (§226,
20 1174, 1174.5); and (7) unlawful and unfair business practices (Bus. & Prof. Cod3 §17200,
21 et. seq.).

22 4. The class claims in this action are brought pursuant to Code of Civil Procedure
23 (“CCP”) §382, seeking recovery for unpaid wages, including overtime wages, missed meal
24 and rest period penalty pay, statutory and waiting time penalties, injunctive and other
25 equitable relief, interest, and reasonable attorneys’ fees and costs. Pursuant to the class
26 action procedures provided for under California law, Plaintiff, on behalf of himself and
27 proposed Class Members (also referred to as “Class”), also seeks injunctive relief and
28

1 restitution of all benefits Defendant has received from their unlawful actions as alleged
2 herein.

3 5. The “Class Period” is designated as the four-year period prior to the filing of this
4 Complaint through the date of final disposition of this action. From the start of the Class
5 Period through the present, Defendant has had a policy and/or practice of among other
6 violations: late and/or interrupted meal breaks, untimely and/or interrupted rest breaks, not
7 reimbursing required business expenses, issuing inaccurate wage statements, and ignoring
8 and violating California wage and hour laws, in their business as more fully set forth below.

9 6. Defendant has treated all persons employed in California in such a way as to
10 violate California’s laws governing conditions of employment and payment of wages
11 owed. Plaintiff asserts that Defendant has knowingly and with conscious disregard of the
12 law refused to pay the Class Members all wages owed, including overtime wages and meal
13 and rest break penalty wages. Defendant has violated numerous Labor Code provisions, as
14 set forth herein. Class Members are owed their back pay, plus interest and/or premiums
15 and penalties under Business and Professions Code section 17203 to compensate Class
16 Members and Class Members for the delay in receiving wages due.

17 7. Defendant, by and through their actions, have engaged in unfair competition,
18 requiring restitution to persons affected and disgorgement of profits so obtained.

19 **THE PARTIES**

20 8. Plaintiff ANDY MONTANEZ is an individual who resides in California and
21 worked for Defendant as an hourly, non-exempt employee until October 28, 2022.

22 9. Defendant PROFESSIONAL MAINTENANCE SYSTEMS, INC. is a California
23 corporation, doing business in California with the capacity to sue and to be sued and doing
24 business, in San Diego County, State of California. Defendant exercised control over the
25 wages, hours, and/or working conditions of Plaintiff and members of the proposed class
26 throughout the liability period.

27 10. Defendant Does 1-50, inclusive, are sued herein under fictitious names. Their
28 true names and capacities are unknown to Plaintiff. When their true names and capacities

are ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein. Plaintiff is informed and believe, and thereon alleges, that each of the fictitiously named Defendant is responsible in some manner for the occurrences herein alleged, and that the damages sustained by Plaintiff and the Class Members herein alleged were proximately caused by such Doe Defendants.

11. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other members of the Class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendant.

JURISDICTION AND VENUE

12. Venue is proper in this judicial district because Defendant conducts business in this County and Defendant has legal obligations to Plaintiff and many of the Class Members in this case that arose in this county.

13. The monetary damages, restitution and statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation, and analysis, Plaintiff alleges that the amount in controversy, including claims for monetary damages, penalties, and attorney's fees, is more than twenty-five thousand dollars (\$25,000) and less than five million dollars (\$5,000,000).

14. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California and Defendant is incorporated in and/or qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

GENERAL ALLEGATIONS

15. During the Class Period, Defendant committed various violations of the California Labor Code, the UCL and the applicable IWC Wage Order, as alleged below in more detail. Defendant enforces multiple policies that violate state law which are intended to increase its own profits to the detriment of its employees.

16. Plaintiff and the putative class are employees of Defendant working in or for their maintenance and janitorial services company.

17. Defendant failed to compensate employees for overtime hours worked. Plaintiff and class members frequently worked at more than one client location per day. The commute between locations was usually performed during the employee's unpaid meal period, resulting in unpaid hours worked and a non-compliant meal period.

18. Defendant failed to maintain a policy and practice that provides its employees with off-duty rest periods as required by California law.

19. Defendant intentionally and willfully failed to pay Plaintiff who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202.

20. Defendants failed to reimburse employees for required business expenses as required by California law.

21. Defendant further failed to provide timely, accurate, itemized wage statements to employees, as well as maintain accurate records, in accordance with Labor Code §§ 226 and 1174.

22. Based upon the above allegations, Defendant engaged in unfair competition.

CALIFORNIA CLASS ACTION ALLEGATIONS

23. Plaintiff brings this action on behalf of himself, and all other persons similarly situated, to recover from Defendant for failure to comply with California wage and hour laws, and for claims under Business and Professions Code § 17200.

24. This action has been brought and may properly be maintained as a class action pursuant to the provisions of Code of Civil Procedure § 382 because the proposed class is

ascertainable and there is a well-defined community of interest. Plaintiff is among in excess of 100 employees who have been similarly injured by Defendant's unlawful employment policies and practices.

25. The "Relevant Time Period" or proposed "Class Period" as defined herein commences four years prior to the date of filing this Complaint.

26. Plaintiff brings this action on their behalf and as a class action under Cal. Code of Civil Procedure §382 on behalf of the following defined groups:

27. Proposed Class: "All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations."

28. Proposed Sub-classes:

- A. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shift in excess of five (5) hours.
- B. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of six (6) hours.
- C. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of eight (8) hours.
- D. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of three and one-half hours (3 ½), but less than or equal to six (6) hours.

1 E. All persons who are employed or have been employed by Defendant in
2 the State of California as hourly, non-exempt workers during the period
3 of the relevant statute of limitations, who worked one or more shifts in
4 excess of six (6) hours, but less than or equal to ten (10) hours.

5 F. All persons who are employed or have been employed by Defendant in
6 the State of California as hourly, non-exempt workers during the period
7 of the relevant statute of limitations, who separated their employment
8 from Defendant.

9 G. All persons who are employed or have been employed by Defendant in
10 the State of California as hourly, non-exempt workers during the period
11 of the relevant statute of limitations, who received pay for one or more
12 pay periods.

13 H. All persons who are employed or have been employed by Defendant in
14 the State of California as hourly, non-exempt workers during the period
15 of the relevant statute of limitations, who were not reimbursed for
16 required business expenses.

17 29. This action is brought, and may properly be maintained, as a class action under
18 CCP §382 because there is a well-defined community of interest in the litigation, and the
19 proposed Class and Subclasses (collectively “Class”) are easily ascertainable.

20 30. Numerosity: The Proposed Class is so numerous that joinder of all members is
21 impractical. Plaintiff is informed and believes, and on that basis alleges, that during the
22 relevant time period, Defendant employed over 100 putative Class Members who are
23 geographically dispersed and who satisfy the definition of the proposed Class. As such, a
24 class action is the only available method for the fair and efficient adjudication of this
25 controversy. Membership in the Proposed Class can be easily ascertained by an
26 examination and analysis of employee and payroll records, among other records within
27 Defendant’s possession and control.
28

1 31. Typicality: Plaintiff's claims are typical of the claims of the Class Members.
2 Plaintiff, like others similarly situated, was subjected to Defendant's common, unlawful
3 policies, practices, and procedures described above. The Plaintiff's positions at the
4 company was typical of those of other Class Members. Plaintiff's claims are typical of the
5 claims of each Class Member because each have sustained damages arising out of and
6 caused by Defendant's common course of conduct, as alleged herein. As such, Plaintiff has
7 the same interests in this matter as all members of the Class.

8 32. Adequacy: Plaintiff will fairly and adequately protect the interests of the
9 members of the Class. Plaintiff has retained counsel competent and experienced in complex
10 class actions and California labor and employment litigation.

11 33. Commonality: Common questions of law and fact exist, including but not
12 limited to the following:

- 13 i. Whether Defendant violated wage and hour laws by failing to pay for
14 all hours worked, including overtime hours worked
- 15 ii. Whether Defendant violated wage and hour laws by failing to pay
16 wages due upon termination;
- 17 iii. Whether Defendant violated wage and hour laws by failing to provide
18 rest breaks;
- 19 iv. Whether Defendant violated wage and hour laws by failing to provide
20 uninterrupted meal breaks;
- 21 v. Whether Defendant violated wage and hour laws by failing to reimburse
22 for required business expenses;
- 23 vi. Whether Defendant's policy and practice concerning rest breaks was
24 unlawful;
- 25 vii. Whether Defendant's policy and practice concerning meal breaks was
26 unlawful;
- 27 viii. Whether Defendant's policy and practice concerning reimbursement of
28 business expenses was unlawful;

- ix. Whether Defendant unlawfully failed to keep and furnish Class Members with accurate, itemized records of hours worked, in violation of Labor Code §§ 226 and 1174;
- x. Whether Defendant's policy and practice of failing to pay its employees all wages due within the time required by law after their employment ended violates the law and warrants waiting time penalties under Cal. Labor Code §§ 200, 201, 202, 203, and 204;
- xi. The proper measure of damages sustained and the proper measure of restitution recoverable by Plaintiff, the Class Members, and Subclass Members;
- xii. Whether the Class Members are entitled to injunctive relief to enjoin any further violations of wage and labor laws;
- xiii. Whether Defendant, and each of them, are/were participants in the alleged unlawful and/or tortious conduct;
- xiv. Whether Defendant's conduct was willful and reckless;
- xv. The effect upon and the extent of injuries suffered by Plaintiff and the Plaintiff Class and the appropriate amount of reimbursement, restitution, damages, or other compensation; and
- xvi. What is the extent of liability of each Defendant, including DOE defendants, to each Class and Subclass member?

34. Superiority: A class action is superior to other available methods of the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation where the damage suffered by individual plaintiffs, while not inconsequential, makes individual actions impracticable given the expenses and burdens associated with seeking individual relief. Prosecuting over 100 identical, individual lawsuits does not promote judicial efficiency or equity and consistency in judicial results. Moreover, the Class is a group of hourly, low-wage earning employees who rely on their wages and requiring that each individual take time away from work to prosecute individual actions

would be inequitable and result in undue hardship for the individual Class members and their families. Public policy favors efficient resolution of their claims and uniform enforcement of California Labor laws against entities skirting their legal obligations at the expense of a vulnerable working population.

35. Manageability: Plaintiff is informed and believes that all allegations in this Complaint are capable of being determined on the same evidence and based primarily on review of corporate records and key testimony of Defendant's corporate representatives. To the extent statistical analysis and representative evidence is necessary, Plaintiff and proposed class counsel will employ competent experts and consultants in the field to determine and review evidence for both issues of liability and damages in a scientifically reliable manner.

36. Plaintiff requests, pursuant to Rule 1857(a)(1) and Rule 3.766 of the California Rules of Court, that the absent Class and Subclass Members be notified by the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The names and address of the Class and Subclass Members are available from Defendant.

FIRST CAUSE OF ACTION

FAILURE TO PAY FOR ALL HOURS WORKED INCLUDING OVERTIME HOURS WORKED

Cal. Labor Code §§204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 510, 558, 1194,

1197, 1197.1, 1198, Wage Order 5

(All Plaintiff Against Defendant)

37. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

38. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 510, 558, 1194, 1197, 1197.1, 1198 and Wage Order 5.

1 39. Section 2(K) of Wage Order 5 defines “hours worked” as “the time during
2 which an employee is subject to the control of an including all the time the employee is
3 suffered or permitted to work, whether or not required to do so.” Defendant has been
4 engaged in many unlawful employment practices which resulted in underpayment for hours
5 worked each pay period as described below:

6 40. Timecard Rounding. Plaintiff and other class members do not clock in and out,
7 but instead are required to record their time on paper timecards and are told to write their
8 shift start and end times as their clock in and out times. This timecard rounding resulted in
9 off the clock hours worked for Plaintiff and class members. Additionally, Plaintiff and his
10 coworkers were required to gather and organize cleaning supplies before their shift started,
11 and put away all supplies after the shift ended, but were not permitted to record that time
12 on their timecards as hours worked. Defendant also often requires employees to work at
13 more than one client location per day, however does not pay employees for time spent
14 traveling to and from client locations mid-shift.

15 41. Work Performed During Unpaid Meal Periods. As stated above, Plaintiff and
16 other similarly situated employees frequently worked at more than one client location per
17 day. The commute between locations was usually performed during the employee’s unpaid
18 meal period, resulting in unpaid hours worked and a non-compliant meal period.

19 42. Failure to Accurately Calculate and Pay Overtime Wages. Defendant failed to
20 account for, calculate, and pay all overtime wages owed to Plaintiff and other similarly
21 situated employees.

22 43. Failure to Pay Wages- Required Minimum Wage. Defendant failed to pay
23 Plaintiff and other similarly situated employees for all hours worked as a result of
24 Defendant’s practices described herein. Based on Defendant’s unlawful conduct described
25 above, Defendant’s failure to pay for all hours worked, including overtime, resulted in a
26 payment of less than the minimum wage for those hours worked in violation of Labor Code
27 §1197, 1197.1, 1199 and Wage Order 5-2001 4(B). Defendant is liable for civil penalties
28 pursuant to Labor Code §558.

1 44. Failure to Pay All Wages Owed Twice Per Month. Defendant was required to
2 pay Plaintiff and other similarly situated employees all wages earned twice during each
3 calendar month pursuant to Labor Code §204(a). Defendant failed to pay all wages earned
4 to employees as a result of the unlawful employment policies and practices discussed
5 herein. As a result of these practices, Plaintiff and class members were underpaid for hours
6 worked, including overtime and penalty wages, and this underpayment resulted in a failure
7 to pay all wages owed twice per month. Due to this failure, Defendant is liable under Labor
8 Code §210 for failure to pay wages as required by law.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO PAY WAGES DUE UPON TERMINATION**

11 Cal. Lab. Code §§201, 202, 203, 256

12 (All Plaintiff Against Defendant)

13 45. Plaintiff incorporates by reference in this cause of action each allegation of the
14 preceding paragraphs as though fully set forth herein.

15 46. Defendant's conduct described in this complaint violates the provisions of Labor
16 Code §§ 201, 202, 203 and 256.

17 47. An employee who is discharged must be paid all of his or her wages immediately
18 at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above,
19 Defendant knowingly and willfully failed to pay all compensation due and owing to
20 Plaintiff at the time employment terminated. Defendant willfully failed to pay employees
21 who are no longer employed by it all compensation due upon termination of employment
22 as required by Cal. Lab. Code §§201 and 202. Plaintiff and similarly situated individuals
23 are now entitled to recover up to thirty (30) days pay as waiting time under the terms of
24 §203.

25 ///

26 ///

27 ///

28 ///

Cal. Labor Code §§226, 226.7, 512, 558, 1198

52. Defendant did not authorize or permit all of its hourly employees to take at least a ten minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and Wage Order 5-2001 11(A). When breaks were missed Defendant failed to pay the 1-hour penalty, as required. Because Defendant violated the Wage Order, Defendant is liable under Labor Code §1198.

FOURTH CAUSE OF ACTION
FAILURE TO PROVIDE UNINTERRUPTED MEAL BREAKS

Cal. Labor Code §§226, 226.7, 512, 558, 1198

(All Plaintiff Against Defendant)

53. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

54. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 226, 226.7, 512, 558, 1198.

55. During Plaintiff's employment, Defendant failed to maintain a compliant meal period policy and practice. Defendant failed to provide all of its hourly employees with their right to take an off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked." Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code. Plaintiff and other similarly situated employees experienced frequent meal period violations.

56. Plaintiff explains that on most days, his meal break was either late, short, or interrupted. Plaintiff and his coworkers were often required to travel between job sites while on their unpaid meal periods. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Defendant: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Defendant did not staff

1 enough people to schedule all timely and uninterrupted thirty-minute meal periods; and/or
2 (5) because management at various levels, affecting all hourly, non-exempt employees,
3 refused to offer, permit, or enforce a lawfully compliant meal period policy. Employees
4 were not paid a premium payment, paid as an hour's wage when meal periods were not
5 given to them in compliance with California law.

6 57. Defendant is liable for failure to pay accrued vacation wages to Plaintiff, and
7 Plaintiff seeks damages under §558.

8 **FIFTH CAUSE OF ACTION**
9 **FAILURE TO REIMBURSE FOR REQUIRED BUSINESS EXPENSES**

10 **Cal. Labor Code §§1198, 2802**

11 **(All Plaintiff Against Defendant)**

12 58. Plaintiff incorporates by reference in this cause of action each allegation of the
13 preceding paragraphs as though fully set forth herein.

14 59. Defendant's conduct described in this complaint violates the provisions of Labor
15 Code §§ 1198 and 2802.

16 60. Labor Code §2802 requires employers to indemnify employees for necessary
17 expenditures or losses incurred by employees in direct consequence of discharge of duties.
18 Here, Plaintiff and other similarly situated employees were required to use their personal
19 vehicles to drive from one client location to the next and were not reimbursed accurately
20 for mileage. Plaintiff and class members were also required to use their phones to be
21 contacted both during work and after work hours and Defendant failed to pay for any cell
22 phone reimbursement.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

SIXTH CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
AND MAINTAIN ACCURATE RECORDS

Cal. Labor Code §§ 226, 1174, 1174.5

(All Plaintiff Against Defendant)

61. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

62. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 226, 1174, 1174.5.

63. California Labor Code § 226(a) provides that “[e]very employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions ... , (5) net wages earned, (6) the inclusive dates of period for which the employee is paid, (7) the name of the employee and his or her social security number..., (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

64. Labor Code § 1174 provides that “[e]very employer employing labor in this state shall ... (c) [k]eep a record showing the names and addresses of all employees employed and the ages of all minors [and] (d) [k]eep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.”

65. Defendant knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Plaintiff in accordance with Labor Code §§ 226 and keep

1 accurate records as required by §1174(d). The statements provided to Plaintiff, and the
2 records maintained by Defendant, do not state the full legal name and address of the
3 Defendant or required meal and rest period penalty payments.

4 66. Such failures caused injury to Plaintiff and others, by, among other things,
5 impeding them from knowing the correct address of their employer, as well as the amount
6 of penalty wages to which they are entitled.

7 **SIXTH CAUSE OF ACTION**
8 **UNFAIR BUSINESS PRACTICES IN VIOLATION OF**
9 **California Business and Professions Code section 17200, et seq.**
10 **(All Plaintiff Against Defendant)**

11 67. Plaintiff incorporates by reference in this cause of action each allegation of the
12 preceding paragraphs as though fully set forth herein.

13 68. Defendant knowingly committed, and upon information and belief continue to
14 commit, ongoing unlawful business practices within the meaning of the UCL, including,
15 but not limited to unlawful practices as described in the causes of action articulated above,
16 and hereby incorporated herein.

17 69. Plaintiff lost money and property as a result of Defendant's unlawful business
18 practices described above.

19 70. Pursuant to the UCL, Plaintiff and all Class Members are entitled to restitution
20 of money or property acquired by Defendant by means of such unlawful business practices,
21 in amounts not yet known, but to be ascertained at trial.

22 71. Pursuant to the UCL, Plaintiff and Class Members are entitled to injunctive
23 relief against Defendant's ongoing unlawful business practices. If an injunction does not
24 issue enjoining Defendant from engaging in the unlawful business practices described
25 above, Plaintiff and the general public will be irreparably injured.

26 72. Plaintiff has no plain, speedy, and adequate remedy at law. Defendant, if not
27 enjoined by this Court, will continue to engage in the unlawful business practices described
28 above in violation of the UCL, in derogation of the rights of Plaintiff and Class Members
and of the general public.

73. Plaintiff's success in this action will result in the enforcement of important rights affecting the public interest by conferring a significant benefit upon the general public.

74. Defendant's numerous violations of local and California law, as well as the other statutory and regulatory violations alleged herein, constitute unlawful business actions and practices in violation of Business and Professions Code § 17200, et seq.

75. Pursuant to Business and Professions Code § 17200, et seq., Plaintiff and the Class Members are entitled to restitution of unpaid wages and penalty pay, among other relief alleged herein, that were withheld and retained by Defendant during a period that commences four years prior to the filing of this action. Plaintiff is further entitled to a permanent injunction requiring Defendant to comply with all provisions of California labor law, including properly paying the lawful rate of pay for all hours worked, providing rest periods to all workers as defined herein, timely paying due wages upon termination, maintaining accurate wages statements and payroll records, in addition to an award of attorneys' fees and costs pursuant to Code of Civil Procedure § 1021.5 and other applicable law, and costs.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Proposed Class, request judgment and the following specific relief against Defendant as follows:

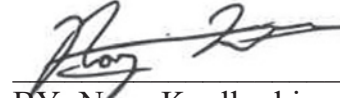
- A. That the Court determine that this action may be maintained as a class action under Code of Civil Procedure § 382;
- B. Provision of class notice to all members of the Class;
- C. That Defendant is found to have violated the above-referenced provisions of the Labor Code, CCR and IWC Wage Order 5 as to Plaintiff, Class Members and relevant subclass Members;
- D. For compensatory damages, in an amount according to proof at trial, with interest thereon;
- E. For compensation for not being paid overtime
- F. For compensation for not paid wages due upon termination;

- 1 G. For compensation for not being provided proper rest breaks;
- 2 H. For compensation for not being provided proper meal breaks;
- 3 I. For compensation for not being provided business expense
- 4 reimbursement;
- 5 J. For compensation for not being paid penalty wages;
- 6 K. That Defendant's actions are found to be willful and/or in bad faith to the
- 7 extent necessary under §§ 201, 202, 203, and 558 of the California Labor
- 8 Code for willful failure to pay all compensation owed at the time of
- 9 separation to Plaintiff and Class Members no longer employed by
- 10 Defendant;
- 11 L. That Plaintiff and Class Members receive penalties for Defendant's
- 12 violation of §226 and 1174 of the California Labor Code for willful
- 13 failure to provide and maintain the required accurate and itemized wage
- 14 statements;
- 15 M. That Plaintiff and Class Members receive an award in the amount of
- 16 unpaid wages owed, including interest thereon, and penalties as provided
- 17 in the Labor Code, CCR and Wage Order, including under Labor Code
- 18 §§ 203, 510, and 558, subject to proof at trial;
- 19 N. That Plaintiff and Class Members receive damages pursuant to §§248.5
- 20 in addition to reasonable attorneys' fees, and costs of suit pursuant to
- 21 Labor Code § 218.5 and CCP 1021.5;
- 22 O. That Defendant be ordered to pay restitution to Plaintiff and Class
- 23 Members for amounts acquired through Defendant's unlawful activities
- 24 pursuant to Business and Professions Code §§ 17200-05 and enjoined to
- 25 cease and desist from unlawful and unfair activities in violation of
- 26 California Business and Professions Code § 17200 et. seq.;
- 27
- 28

- 1 P. That Plaintiff and Class Members receive an award of reasonable
2 attorneys' fees and costs pursuant to Code of Civil Procedure §1021.5,
3 Labor Code §226, 218.5, and 1194 and/or applicable laws;
4 Q. That the Court issue declaratory relief that Defendant's challenged
5 policies are unlawful; and
6 R. That the Court order further relief, in law and equity, as it deems
7 appropriate and just.
8

9 DATED: December 1, 2022

KOUL LAW FIRM

10 

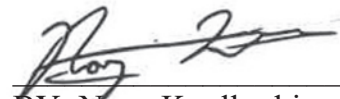
11 BY: Nazo Koulloukian, Esq.
12 Attorneys for Plaintiff ANDY
13 MONTANEZ and putative class
14 members
15
16

17 ***DEMAND FOR JURY TRIAL***

18 Plaintiff, on behalf of himself and the putative class, hereby demands trial by jury
19 to the full extent permitted by law.
20

21 DATED: December 1, 2022

KOUL LAW FIRM

22 

23 BY: Nazo Koulloukian, Esq.
24 Attorneys for Plaintiff ANDY
25 MONTANEZ and putative class
26 members
27
28