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FILED/ENDORSED
Clerk of the Superior Court

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A. Amaral

By _____
DEPUTY CLERK

7 Attorneys for Plaintiff ROBERTO LORENZO CRUZ,
8 individually and on behalf of others similarly situated

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SOLANO-OLD SOLANO COURTHOUSE

11 ROBERTO LORENZO CRUZ, individually and
12 on behalf of all others similarly situated,

13 PLAINTIFF,

14 v.

15 PROSET, INC. d/b/a PROSET MODULAR; and
16 DOES 1 through 50, inclusive,

17 DEFENDANTS.

CASE NO.: FCS059306

*Assigned for all purposes to the Hon. E. Bradley
Nelson; Dept. 4*

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1) FAILURE TO PAY OVERTIME (LABOR CODE §§ 510, 1198)
- 2) FAILURE TO PROVIDE MEAL PERIODS AND/OR PAY MEAL PERIOD PREMIUMS (LABOR CODE § 226.7, 512)
- 3) FAILURE TO AUTHORIZE AND PERMIT REST BREAKS AND/OR PAY REST BREAK PREMIUMS (LABOR CODE § 226.7)
- 4) FAILURE TO PAY MINIMUM WAGES (LABOR CODE §§ 1194, 1197, 1197.1)
- 5) FAILURE TO TIMELY PAY FINAL WAGES (LABOR CODE §§ 201-203)
- 6) FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS (LABOR CODE § 226)
- 7) UCL VIOLATIONS (BUS. & PROF. CODE §§ 17200-17204)
- 8) PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE §§ 2698 – 2699.5)

DEMAND FOR JURY TRIAL

1 Plaintiff Roberto Lorenzo Cruz (“Plaintiff”), individually, and on behalf of others similarly
2 situated (hereinafter “Class Members”), and as a private attorney general, based upon facts that either
3 have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for
4 further investigation and discovery, complains and hereby alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. Plaintiff brings this action against Defendants PROSET, INC. d/b/a PROSET
7 MODULAR, and DOES 1 through 50, inclusive (hereinafter also collectively referred to as
8 “Defendants”) for California Labor Code violations, unfair business practices, and monetary penalties
9 stemming from Defendants’ failure to pay overtime compensation, failure to provide compliant meal
10 periods, failure to authorize and permit compliant rest periods, failure to pay minimum wages, failure
11 to timely pay final wages, failure to provide accurate wage statements, and failure to maintain accurate
12 time and payroll records.

13 2. Plaintiff’s First through Seven Causes of Action are brought as a class action on behalf
14 of himself and similarly situated current and former employees of Defendants (hereinafter collectively
15 referred to as the “Class” or “Class Members,” as defined more fully in Paragraph 17, below) pursuant
16 to California Code of Civil Procedure Section 382. The monetary damages and restitution sought by
17 Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according
18 to proof at trial.

19 3. Plaintiff’s Eight Cause of Action is brought as a representative action on behalf of
20 himself and other current and former non-exempt employees of Defendants in the State of California
21 at any time within the period beginning one (1) year prior to the date of Plaintiff’s PAGA letter to the
22 LWDA and ending at the time this action settles or proceeds to final judgment (hereinafter collectively
23 referred to as the “Aggrieved Employees”) pursuant to California Labor Code Sections 2698, *et seq.*
24 Plaintiff is an aggrieved employee against whom one or more of the alleged violations occurred. The
25 civil penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will
26 be established according to proof at trial.

27 4. The Court has jurisdiction over this action pursuant to the California Constitution,
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1 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except
2 those given by statute to other courts. The statutes under which this action is brought do not specify
3 any other basis for jurisdiction.

4 5. This Court has jurisdiction over Defendants because, upon information and belief,
5 Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise
6 intentionally avail themselves of the California market so as to render the exercise of jurisdiction over
7 them by the California courts consistent with traditional notions of fair play and substantial justice.

8 6. Venue is proper in this Court because, upon information and belief, Defendants maintain
9 offices, have agents, and/or transact business in the State of California, County of Solano.

10 **PARTIES**

11 7. Plaintiff is a resident of the State of California. At all times relevant to this action,
12 Plaintiff was employed by Defendants in the County of Solano, State of California as an hourly, non-
13 exempt employee.

14 8. Defendant PROSET, INC. d/b/a PROSET MODULAR, is and at all times herein
15 mentioned was, a corporation organized and existing under the laws of the State of Colorado and is
16 registered to do business in the state of California. Plaintiff is informed and believes that PROSET,
17 INC. d/b/a PROSET MODULAR is a general contractor.

18 9. Plaintiff is informed and believes that Defendants’ wage statements furnished to
19 Plaintiff and other Class Members identify PROSET MODULAR d/b/a PROSET MODULAR as the
20 legal entity that is the employer.

21 10. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive, and
22 therefore sues these defendants by such fictitious names. The Doe defendants may be individuals,
23 partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges, that, at all times
24 mentioned herein, each of the Doe defendants was the parent, subsidiary, agent, servant, employee, co-
25 venturer, and/or co-conspirator of each of the other defendants, and was at all times mentioned acting
26 within the scope, purpose, consent, knowledge, ratification and authorization of such agency,
27 employment, joint venture and conspiracy. Plaintiff will amend this Complaint to allege their true
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1 names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each
2 of the fictitiously named Doe defendants is responsible in some manner for the occurrences herein
3 alleged, and that Plaintiff's damages as herein alleged were proximately caused by its conduct.
4 Defendants PROSET INC. d/b/a PROSET MODULAR; and DOES 1 thorough 50 are collectively
5 referred to herein as "Defendants."

6 11. Defendants are and at all times herein mentioned were, (a) conducting business in the
7 County of Solano, State of California, and (b) the employer of Plaintiff consistent with the California
8 Labor Code and Industrial Welfare Commission Wage Orders ("Wage Orders").

9 12. Plaintiff further alleges that Defendants, directly or indirectly controlled or affected the
10 working conditions, wages, working hours, and conditions of employment of Plaintiff and the Class so
11 as to make each of said Defendants employers and employers jointly liable under the statutory
12 provisions set forth herein.

13 13. Plaintiff is informed and believes, and thereon alleges, that at all times relevant to this
14 action, Defendants were the alter egos, predecessors, divisions, affiliates, integrated enterprises, joint
15 employers, subsidiaries, parents, principals, related entities, co-conspirators, authorized agents,
16 partners, joint venturers, and/or guarantors, actual or ostensible, of each other. Each defendant was
17 dominated by his, her, or its codefendants, and each was the alter ego of the other.

18 14. Plaintiff is informed and believes, and based thereon alleges, that in perpetrating the acts
19 and omissions alleged herein, Defendants, and each of them, acted pursuant to, and in furtherance of,
20 their policies and practices of not paying Plaintiff and the Class all wages earned and due, through
21 methods and schemes which include, but are not limited to: failing to pay overtime; failing to provide
22 meal periods and rest breaks; failing to properly maintain records; failing to provide accurate itemized
23 statements for each pay period; failing to timely pay final wages; and requiring, permitting, or suffering
24 the employees to work off the clock, in violation of the California Labor Code ("Labor Code") and
25 applicable Industrial Welfare Commission ("IWC") Wage Order(s).

26 15. Plaintiff is informed and believes, and based thereon alleges, that in accordance with
27 Labor Code Section 558.1, Defendants and any person acting on behalf of Defendants are liable for
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1 violating, or causing to violate, any provision regulating minimum wages or hours and days of work in
2 any order of the Industrial Welfare Commission, or Labor Code Sections 203, 226, 226.7, 1193.6, 1194,
3 or 2802.

4 **CLASS ACTION ALLEGATIONS**

5 16. Plaintiff brings the First through Seven Causes of Action as a class action on his own
6 behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class
7 certification under Code of Civil Procedure Section 382.

8 17. The proposed class is defined as follows: All current and former non-exempt employees
9 of any of the Defendants within the State of California at any time commencing four (4) years preceding
10 the filing of Plaintiff's original complaint up until the time that notice of the certified class action is
11 provided to the class (hereinafter referred to as the "Class" or "Class Members").

12 18. Plaintiff reserves the right to establish other subclasses as appropriate.

13 19. The Class is ascertainable and there is a well-defined community of interest in the
14 litigation:

15 a. Numerosity: The Class Members are so numerous that joinder of all Class Members
16 is impracticable. The membership of the entire Class is unknown to Plaintiff at this
17 time; however, the Class is estimated to be over fifty (50) individuals and the identity
18 of such membership is readily ascertainable by inspection of Defendants' employment
19 records.

20 b. Typicality: Plaintiff's claims are typical of all other Class Members demonstrated
21 herein. Plaintiff and the Class members worked as hourly, non-exempt employees for
22 Defendants in California, including in various construction related positions at
23 Defendants' work-site locations. Plaintiff and the other similarly situated Class
24 Members were employed by Defendants and shared similar job duties and
25 responsibilities, were subjected to the same policies and practices, and endured similar
26 violations at the hands of Defendants.

27 c. Adequacy: Plaintiff will fairly and adequately protect the interests of each Class
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Member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other Class Members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.

d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all Class Members is impractical.

e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the Class Members who are not named in the complaint anonymity that allows for the vindication of their rights.

20. There are common questions of law and fact as to the Class that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the Class:

- a. Whether Defendants failed to pay minimum wages to Plaintiff and the other Class Members for all hours worked;
- b. Whether Defendants required Plaintiff and the other Class Members to work more than eight (8) hours per day and/or more than forty (40) hours per week and failed to pay the legally required overtime compensation to Plaintiff and the other Class Members;
- c. Whether Defendants deprived Plaintiff and the other Class Members of meal and/or rest periods or required Plaintiff and the other Class Members to work during meal and/or rest periods without compensation;
- d. Whether Defendants failed to pay meal period premium wages to Class Members when

they were not provided legally compliant meal periods;

- e. Whether Defendants failed to pay rest period premium wages to Class Members when they were not authorized and permitted to take legally compliant rest periods;
- f. Whether Defendants had a corporate policy and practice of failing to pay Plaintiff and the other Class Members for all hours worked, and for missed, short, late or interrupted meal periods and rest breaks in violation of California law;
- g. Whether Defendants failed to pay all wages due to Plaintiff and the other Class Members within the time required upon their discharge or resignation from employment;
- h. Whether Defendants' failure to pay wages, without abatement, or reduction, in accordance with the California Labor Code was willful;
- i. Whether Defendants complied with wage statement reporting as required by the California Labor Code, including Section 226;
- j. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code Section 17200, *et seq.* based on their improper withholding of compensation and deduction of wages;
- k. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- l. Whether Plaintiff and the other Class Members are entitled to compensatory damages pursuant to the California Labor Code.

GENERAL ALLEGATIONS

21. Plaintiff is informed and believes that Defendants are general contractors that provide services in California. Defendants employed Plaintiff to work as a full-time, hourly-paid employee.

22. At all relevant times set forth herein, Defendants employed Plaintiff, the Class, and the Aggrieved Employees as hourly-paid or non-exempt employees.

23. Throughout the time period involved in this case, Defendants had the authority to hire and terminate Plaintiff, the Class, and the Aggrieved Employees; to directly or indirectly control work rules, working conditions, wages, working hours, and conditions of employment of Plaintiff, the Class,

1 and the Aggrieved Employees.

2 24. At all times herein mentioned, Defendants were subject to the Labor Code of the State
3 of California and the applicable Industrial Welfare Commission Orders.

4 25. Plaintiff is informed and believes, and thereon alleges that Defendants engaged in an
5 ongoing and systematic scheme of wage abuse against their hourly-paid or non-exempt employees. As
6 set forth in more detail below, this scheme involved, *inter alia*, regularly Plaintiff, the Class, and the
7 Aggrieved Employees to work off the clock without compensation, thereby failing to pay them for all
8 hours worked, including minimum and overtime wages. Defendants also implemented policies that
9 prohibited Plaintiff, the Class, and the Aggrieved Employees from accurately recording the actual time
10 worked, resulting in a failure to pay Plaintiff, the Class, and the Aggrieved Employees all wages owed.
11 In addition, Defendants routinely failed to permit Plaintiff, the Class, and the Aggrieved Employees to
12 take timely and duty-free meal periods and rest periods in violation of California law, and failed to pay
13 associated meal and rest period premium wages. Defendants also failed to provide accurate itemized
14 wage statements for each pay period, and failed to timely pay all wages owed during and upon
15 termination of employment.

16 26. Throughout the time period involved in this case, Defendants have implemented policies
17 and practices which failed to provide Plaintiff, the Class, and the Aggrieved Employees with timely
18 and duty-free meal periods. Defendants routinely failed to relieve Plaintiff, the Class, and the Aggrieved
19 Employees of all duties during their meal periods, regularly failed to relinquish control over Plaintiff,
20 the Class, and the Aggrieved Employees during their meal periods, regularly failed to permit Plaintiff,
21 the Class, and the Aggrieved Employees a reasonable opportunity to take their meal periods, and
22 regularly impeded or discouraged Plaintiff and the Class from taking thirty (30) minute uninterrupted
23 meal breaks no later than the end of their fifth hour of work and/or from taking a second thirty (30)
24 minute uninterrupted meal break no later than their tenth hour of work for shifts lasting more than ten
25 (10) hours. Defendants also failed to maintain accurate records of meal periods taken by Plaintiff, the
26 Class, and the Aggrieved Employees.

27 27. Throughout the time period involved in this case, Defendants did not adequately inform
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1 Plaintiff, the Class, and the Aggrieved Employees of their right to take meal periods under California
2 law. Moreover, Defendants systematically disregarded their own written policies regarding the
3 provision and timing of meal periods for Plaintiff, the Class, and the Aggrieved Employees. Instead,
4 Defendants' actual policy and practice was to schedule Plaintiff, the Class, and the Aggrieved
5 Employees in a way that prohibited them from taking timely and duty-free meal periods, and to require
6 Plaintiff and the Class to work through their meal periods, for which they were not compensated.

7 28. Throughout the time period involved in this case, Defendants failed to pay Plaintiff, the
8 Class, and the Aggrieved Employees premium wages for meal periods that were missed, late,
9 interrupted, or shortened in violation of California law. Defendants knew or should have known that
10 Plaintiff, the Class, and the Aggrieved Employees were entitled to receive all meal periods or payment
11 of one additional hour of pay at their regular rate of pay when a meal period was missed, short, late,
12 and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to provide legally
13 compliant meal periods to Plaintiff, the Class, and the Aggrieved Employees, and routinely failed to
14 pay one additional hour of pay to Plaintiff, the Class, and the Aggrieved Employees at their regular rate
15 of pay when a meal period was missed, short, late, and/or interrupted.

16 29. Throughout the time period involved in this case, Defendants have implemented policies
17 and practices which prohibited Plaintiff, the Class, and the Aggrieved Employees from taking timely
18 and duty-free rest periods. Defendants regularly failed to provide, authorize, and permit Plaintiff, the
19 Class, and the Aggrieved Employees to take full, uninterrupted, off-duty rest periods for every shift
20 lasting three and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest periods for
21 every shift lasting six (6) to ten (10) hours, and failed to make a good faith effort to authorize, permit,
22 and provide such rest breaks in the middle of each work period.

23 30. Throughout the time period involved in this case, Defendants did not adequately inform
24 Plaintiff, the Class, and the Aggrieved Employees of their right to take rest periods under California
25 law. Moreover, Defendants systematically disregarded their own written policies regarding the
26 provision and timing of rest periods for Plaintiff, the Class, and the Aggrieved Employees. Instead,
27 Defendants' actual policy and practice was to schedule Plaintiff, the Class, and the Aggrieved
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1 Employees in a way that regularly prohibited them from taking timely and duty-free rest periods, and
2 to regularly require Plaintiff, the Class, and the Aggrieved Employees to work through their rest
3 periods.

4 31. Throughout the time period involved in this case, Defendants failed to pay Plaintiff, the
5 Class, and the Aggrieved Employees premium wages for rest periods that were missed, late, interrupted,
6 or shortened in violation of California law. Defendants knew or should have known that Plaintiff, the
7 Class, and the Aggrieved Employees were entitled to receive all rest periods or payment of one
8 additional hour of pay at their regular rate of pay when a rest period was missed, short, late, and/or
9 interrupted. Notwithstanding this knowledge, Defendants routinely failed to authorize and permit
10 Plaintiff, the Class, and the Aggrieved Employees to take duty-free rest periods, and failed to pay one
11 additional hour of pay to Plaintiff, the Class, and the Aggrieved Employees at their regular rate of pay
12 when a rest period was missed, short, late and/or interrupted.

13 32. Throughout the time period involved in this case, Defendants regularly required
14 Plaintiff, the Class, and the Aggrieved Employees to perform work off the clock. Plaintiff, the Class,
15 and the Aggrieved Employees were regularly required to perform uncompensated work off the clock
16 for which they were not compensated.

17 33. Throughout the time period involved in this case, Defendants implemented policies that
18 prohibited Plaintiff, the Class, and the Aggrieved Employees from accurately recording the actual time
19 worked, resulting in a failure to pay Plaintiff, the Class, and the Aggrieved Employees all wages owed.
20 In addition, Plaintiff is informed and believes that Defendants employed a rounding policy that was not
21 neutral and designed to consistently round time in Defendants' favor, ensuring that Plaintiff, the Class,
22 and the Aggrieved Employees were not paid for all time worked.

23 34. Throughout the time period involved in this case, Plaintiff, the Class, and the Aggrieved
24 Employees worked more than eight (8) hours in a day, and/or forty (40) hours in a week.

25 35. Throughout the time period involved in this case, Defendants regularly failed to pay all
26 overtime compensation owed to Plaintiff, the Class, and the Aggrieved Employees when they worked
27 in excess of eight (8) hours in a single work day and/or forty (40) hours in a single work week, or in
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1 excess of twelve (12) hours in a single work day and/or eighty (80) hours in a single work week.
2 Defendants knew or should have known that Plaintiff, the Class, and the Aggrieved Employees were
3 entitled to receive certain wages for overtime compensation and that they were not receiving wages for
4 overtime compensation.

5 36. Throughout the time period involved in this case, Defendants failed to pay overtime to
6 Plaintiff, the Class, and the Aggrieved Employees for all overtime hours worked based on regular rates
7 of pay correctly calculated to include all applicable remuneration.

8 37. Throughout the time period involved in this case, Defendants regularly failed to pay
9 Plaintiff, the Class, and the Aggrieved Employees at least minimum wages for all hours worked.
10 Defendants knew or should have known that Plaintiff, the Class, and the Aggrieved Employees were
11 entitled to receive at least minimum wages for all hours worked and that they were not receiving at
12 least minimum wages for all hours worked. Defendants' failure to pay minimum wages included, *inter*
13 *alia*, failing to pay Plaintiff, the Class, and the Aggrieved Employees at the required minimum wage
14 pursuant to California law, requiring Plaintiff, the Class, and the Aggrieved Employees to perform
15 work off the clock, and failing to accurate record all time worked by Plaintiff, the Class, and the
16 Aggrieved Employees which resulted in the systematic underpayment of wages to Plaintiff, the Class,
17 and the Aggrieved Employees.

18 38. Throughout the time period involved in this case, Defendants regularly failed to pay
19 Plaintiff, the Class, and the Aggrieved Employees all wages owed to them upon discharge or
20 resignation. Defendants knew or should have known that Plaintiff, the Class, and the Aggrieved
21 Employees were entitled to receive all wages owed to them upon termination within the time
22 permissible under California Labor Code Section 202. Plaintiff, the Class, and the Aggrieved
23 Employees did not receive payment of all final wages owed to them upon discharge or resignation,
24 including overtime compensation and minimum wages within any time permissible under California
25 Labor Code Section 202.

26 39. Throughout the time period involved in this case, Defendants regularly failed to pay
27 Plaintiff, the Class, and the Aggrieved Employees all wages within any time permissible under
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1 California law, including, *inter alia*, California Labor Code Section 204. Defendants knew or should
2 have known that Plaintiff, the Class, and the Aggrieved Employees were entitled to receive all wages
3 owed to them during their employment. Plaintiff, the Class, and the Aggrieved Employees did not
4 receive payment of all wages, including overtime compensation, minimum wages, and meal and rest
5 period premiums.

6 40. Throughout the time period involved in this case, Defendants regularly failed to provide
7 complete or accurate wage statements to Plaintiff, the Class, and the Aggrieved Employees. Defendants
8 knew or should have known that Plaintiff, the Class, and the Aggrieved Employees were entitled to
9 receive complete and accurate wage statements in accordance with California law, but, in fact, they did
10 not receive complete and accurate wage statements from Defendants. The deficiencies included, *inter*
11 *alia*, the failure to include the total number of hours worked, the actual gross wages earned, and the
12 correct rates of pay.

13 41. Throughout the time period involved in this case, Defendants regularly failed to keep
14 complete or accurate payroll records for Plaintiff, the Class, and the Aggrieved Employees. Defendants
15 knew or should have known that Defendants were required to keep complete and accurate time payroll
16 records for Plaintiff, the Class, and the Aggrieved Employees in accordance with California law, but,
17 in fact, did not keep complete and accurate time and payroll records.

18 42. Throughout the time period involved in this case, Defendants regularly failed to
19 maintain accurate records relating to Plaintiff, the Class, and the Aggrieved Employees' work periods,
20 meal periods, total daily hours, hours per pay period, and applicable pay rates.

21 43. Throughout the time period involved in this case, Defendants knew or should have
22 known that they had a duty to compensate Plaintiff, the Class, and the Aggrieved Employees pursuant
23 to California law. Defendants had the financial ability to pay such compensation, but willfully,
24 knowingly, and intentionally failed to do so, and falsely represented to Plaintiff, the Class, and the
25 Aggrieved Employees that they paid all wages owed to them, all in order to increase Defendants'
26 profits.

27 44. California Labor Code Section 218 states that nothing in Article 1 of the Labor Code
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1 shall limit the right of any wage claimant to “sue directly ... for any wages or penalty due to him [or
2 her] under this article.”

3 **FIRST CAUSE OF ACTION**

4 **(Violation of California Labor Code §§ 510 and 1198)**

5 **(Against All Defendants)**

6 45. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
7 allegation set forth above.

8 46. California Labor Code Section 1198 and the applicable Industrial Welfare Commission
9 (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a
10 rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the
11 number of hours worked by the person on a daily or weekly basis.

12 47. Specifically, the applicable IWC Wage Order provides that Defendants are and were
13 required to pay Plaintiff and the other Class Members employed by Defendants, and working more than
14 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half
15 for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

16 48. The applicable IWC Wage Order further provides that Defendants are and were required
17 to pay Plaintiff and the Class overtime compensation at a rate of two times their regular rate of pay for
18 all hours worked in excess of twelve (12) hours in a day and for all hours worked in excess of eight (8)
19 hours on the seventh day of work in a workweek.

20 49. California Labor Code Section 510 codifies the right to overtime compensation at one-
21 and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty
22 (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and no overtime
23 compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day
24 or in excess of eight (8) hours in a day on the seventh day of work.

25 50. During the relevant time period, Plaintiff and the other Class Members regularly worked
26 in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

27 51. A van under the direction and control of Defendants transported Plaintiff and other Class
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1 Members from a hotel or motel provided by Defendants, where Plaintiff and other Class Members
2 stayed, to Defendants' job site located in Vallejo, California. Defendants did not compensate Plaintiff
3 and other Class Members for the roundtrip commute to and from Defendants' job site, which took more
4 than forty-five minutes each way. Plaintiff and all other Class Members were required by Defendants
5 to meet at 5:30 a.m. downstairs at the motel or hotel, and would depart in the Defendants operated van
6 to the job site at 6:20 a.m. Similarly, the van would pick up Plaintiff all other Class Members at the end
7 of their shifts at the job site, which was often as late as 7:30 p.m. or 8:00 p.m., and would transport
8 them back to the motel or hotel with an arrival time of 9:00 p.m.

9 52. During the relevant time period, Defendants intentionally and willfully failed to pay
10 overtime wages owed to Plaintiff and the other Class Members.

11 53. Defendants' failure to pay Plaintiff and the other Class Members the unpaid balance of
12 overtime compensation, as required by California laws, violates the provisions of California Labor
13 Code Sections 510 and 1198, and is therefore unlawful.

14 54. Pursuant to California Labor Code section 1194, Plaintiff and the other Class Members
15 are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

16 **SECOND CAUSE OF ACTION**

17 **(Violation of California Labor Code §§ 226.7 and 512(a))**

18 **(Against All Defendants)**

19 55. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
20 allegation set forth above.

21 56. At all relevant times, the relevant IWC Order and California Labor Code Sections 226.7
22 and 512(a) were applicable to Plaintiff and the other Class Members' employment by Defendants.

23 57. At all relevant times, California Labor Code Section 226.7 provides that no employer
24 shall require an employee to work during any meal or rest period mandated by an applicable order of
25 the California IWC.

26 58. At all relevant times, the applicable IWC Wage Order and California Labor Code
27 Section 512(a) provide that an employer may not require, cause or permit an employee to work for a
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1 work period of more than five (5) hours per day without providing the employee with a meal period of
2 not less than thirty (30) minutes, except that if the total work period per day of the employee is no more
3 than six (6) hours, the meal period may be waived by mutual consent of both the employer and
4 employee.

5 59. At all relevant times, California Labor Code Section 512(a) further provides that an
6 employer may not require, cause or permit an employee to work for a work period of more than ten
7 (10) hours per day without providing the employee with a second uninterrupted meal period of not less
8 than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the
9 second meal period may be waived by mutual consent of the employer and the employee only if the
10 first meal period was not waived.

11 60. During the relevant time period, Plaintiff and the other Class Members who were
12 scheduled to work for a period of time longer than six (6) hours, and who did not waive their legally-
13 mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours
14 without an uninterrupted meal period of not less than thirty (30) minutes.

15 61. During the relevant time period, Plaintiff and the other Class Members who were
16 scheduled to work for a period of time in excess of ten (10) hours were required to work for periods
17 longer than ten (10) hours without a second uninterrupted meal period of not less than thirty (30)
18 minutes.

19 62. During the relevant time period, Defendants intentionally and willfully required Plaintiff
20 and the other Class Members to miss their meal periods and to take meal periods that were late,
21 shortened, or interrupted, and failed to compensate Plaintiff and the other Class Members the full meal
22 period premium for missed, shortened, late, or interrupted meal periods.

23 63. During the relevant time period, Defendants failed to pay Plaintiff and the other Class
24 Members the full meal period premiums due pursuant to California Labor Code Section 226.7.

25 64. Defendants' conduct violates the applicable IWC Wage Order and California Labor
26 Code Sections 226.7 and 512(a).

27 65. Pursuant to the applicable IWC Wage Order and California Labor Code Section
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1 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one additional
2 hour of pay at the employee's regular rate of compensation for each work day that the meal period was
3 not provided.

4 **THIRD CAUSE OF ACTION**

5 **(Violation of California Labor Code § 226.7)**

6 **(Against All Defendants)**

7 66. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
8 allegation set forth above.

9 67. At all times herein set forth, the applicable IWC Wage Order and California Labor Code
10 Section 226.7 were applicable to Plaintiff and the other Class Members' employment by Defendants.

11 68. At all relevant times, California Labor Code Section 226.7 provides that no employer
12 shall require an employee to work during any rest period mandated by an applicable order of the
13 California IWC.

14 69. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer
15 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in
16 the middle of each work period" and that the "rest period time shall be based on the total hours worked
17 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the
18 total daily work time is less than three and one-half (3.5) hours."

19 70. During the relevant time period, Defendants required Plaintiff and other Class Members
20 to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each
21 four (4) hour period worked.

22 71. During the relevant time period, Defendants willfully required Plaintiff and the other
23 Class Members to work during rest periods, failed to allow Plaintiff and the other Class Member to
24 take any rest period and/or failed to authorize and permit Plaintiff and the other Class Members to take
25 uninterrupted, duty-free rest breaks.

26 72. During the relevant time period, Defendants failed to pay Plaintiff and the other Class
27 Members the full rest period premium due pursuant to California Labor Code Section 226.7 for work
28

1 performed during rest periods, and/or for failure to authorize and permit Plaintiff and other Class
2 Members from taking uninterrupted rest periods.

3 73. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code
4 section 226.7.

5 74. Pursuant to the applicable IWC Wage Orders and California Labor Code section
6 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one
7 additional hour of pay at the employees' regular hourly rate of compensation for each work day that
8 the rest period was not provided.

9 **FOURTH CAUSE OF ACTION**

10 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

11 **(Against All Defendants)**

12 75. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
13 allegation set forth above.

14 76. At all relevant times, California Labor Code Sections 1194, 1197, and 1197.1 provide
15 that the minimum wage to be paid to employees and the payment of a lesser wage than the minimum
16 so fixed is unlawful.

17 77. The applicable Wage Order(s), including Wage Order 16-2001, § 5(A) further states, in
18 relevant part, "All employer-mandated travel that occurs after the first location where the employee's
19 presence is required by the employer shall be compensated at the employee's regular rate of pay or, if
20 applicable, the premium rate"

21 78. During the relevant time period, Defendants regularly failed to pay minimum wage to
22 Plaintiff and the other Class Members as required pursuant to California Labor Code Sections 1194,
23 1197, and 1197.1. Among other things, although Defendants maintained a common policy and practice
24 of requiring Plaintiff and Class Members to arrive at their respective foremen's residence no later than
25 6:00 a.m. Monday through Friday to begin work, including to travel to the company's warehouse to
26 pick up construction materials and supplies, or to travel to project sites, and to thereafter travel back to
27 their respective foremen's residence from the project site, Defendants did not pay Plaintiff and Class

1 Members for this time.

2 79. Defendants' failure to pay Plaintiff and the other Class Members the minimum wage as
3 required violates California Labor Code Sections 1194, 1197, and 1197.1. Pursuant to those sections,
4 Plaintiff and the other Class Members are entitled to recover the unpaid balance of their minimum wage
5 compensation as well as interest, costs, and attorneys' fees, and liquidated damages in an amount equal
6 to the wages unlawfully unpaid and interest thereon.

7 80. Pursuant to California Labor Code Section 1194.2, Plaintiff and the other Class
8 Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
9 and interest thereon.

10 **FIFTH CAUSE OF ACTION**

11 **(Violation of California Labor Code §§ 201, 202, 203)**

12 **(Against All Defendants)**

13 81. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
14 allegation set forth above.

15 82. At all relevant times herein set forth, California Labor Code Sections 201 and 202
16 provide that if an employer discharges an employee, the wages earned and unpaid at the time of
17 discharge are due and payable immediately, and if an employee quits his or her employment, his or her
18 wages shall become due and payable not later seventy-two (72) hours thereafter, unless the employee
19 has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is
20 entitled to his or her wages at the time of quitting.

21 83. During the relevant time period, the employment of Plaintiff and many other Class
22 Members with Defendants ended, *i.e.* was terminated by quitting or discharge. Defendants intentionally
23 and willfully failed to pay Plaintiff and other Class Members who are no longer employed by
24 Defendants all of their wages, earned and unpaid, including but not limited to minimum wages, straight
25 time wages, overtime wages, and vested but unused vacation time, within seventy-two (72) hours of
26 their leaving Defendants' employ.

27 84. Defendants' failure to pay Plaintiff and other Class Members who are no longer
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1 employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving
2 Defendants' employ, is in violation of California Labor Code Sections 201 and 202.

3 85. California Labor Code Section 203 provides that if an employer willfully fails to pay
4 wages owed, in accordance with Sections 201 and 202, then the wages of the employee shall continue
5 as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but
6 the wages shall not continue for more than thirty (30) days.

7 86. Plaintiff and other Class Members who are no longer employed by Defendants are
8 entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to
9 a thirty (30) day maximum pursuant to California Labor Code Section 203.

10 **SIXTH CAUSE OF ACTION**

11 **(Violation of California Labor Code § 226(a))**

12 **(Against All Defendants)**

13 87. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
14 allegation set forth above.

15 88. At all material times set forth herein, California Labor Code Section 226(a) provides
16 that every employer shall furnish each of its employees an accurate itemized statement in writing
17 showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate
18 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
19 deductions, provided that all deductions made on written orders of the employee may be aggregated
20 and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
21 employee is paid, (7) the name of the employee and his or her social security number, (8) the name and
22 address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the
23 pay period and the corresponding number of hours worked at each hourly rate by the employee. The
24 deductions made from payments of wages shall be recorded in ink or other indelible form, properly
25 dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall
26 be kept on file by the employer for at least three years at the place of employment or at a central location
27 within the State of California.

1 89. Defendants have intentionally and willfully failed to provide Plaintiff and the Class with
2 complete and accurate wage statements. The deficiencies include, but are not limited to the failure list
3 the total number of hours worked, the actual gross wages earned, and the correct rates of pay.

4 90. Because of Defendants' violation of California Labor Code Section 226(a), Plaintiff and
5 the Class have suffered injury and damage to their statutorily-protected rights.

6 91. More specifically, Plaintiff and the Class have been injured by Defendants' intentional
7 and willful violation of California Labor Code Section 226(a) because they were denied both their legal
8 right to receive, and their protected interest in receiving, accurate and itemized wage statements
9 pursuant to California Labor Code Section 226(a).

10 92. Plaintiff and the Class are entitled to recover from Defendants the greater of their actual
11 damages caused by Defendants' failure to comply with California Labor Code Section 226(a), or an
12 aggregate penalty not exceeding four thousand dollars per employee.

13 93. Plaintiff and the Class are also entitled to injunctive relief to ensure compliance with
14 this section, pursuant to California Labor Code Section 226(g).

15 **SEVENTH CAUSE OF ACTION**

16 **(Violation of Cal. Business & Professions Code §§ 17200, et seq.)**

17 **(Against All Defendants)**

18 94. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
19 allegation set forth above.

20 95. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful
21 and harmful to Plaintiff and the Class, to the general public, and Defendants' competitors. Accordingly,
22 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of
23 Civil Procedure Section 1021.5.

24 96. Defendants' activities as alleged herein are violations of California law, and constitute
25 unlawful business acts and practices in violation of California Business & Professions Code Section
26 17200, *et seq.*

27 97. Plaintiff is a "person" within the meaning of Business & Professions Code Section
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1 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive relief,
2 restitution, and other appropriate equitable relief.

3 98. A violation of California Business & Professions Code Section 17200, *et seq.* may be
4 predicated on the violation of any state or federal law. In this instant case, Defendants' policies and
5 practices of requiring employees, including Plaintiff and the Class, to work overtime without proper
6 compensation violate California Labor Code Sections 510 and 1198. Additionally, Defendants'
7 systematic policies and practices of requiring employees, including Plaintiff and the Class, to work
8 without legally compliant meal periods and rest breaks violate California Labor Code Sections 226.7
9 and 512(a). Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and
10 the Class violate California Labor Code Sections 201, 202, and 203.

11 99. Defendants also violated California Labor Code Sections 204, 226(a), 1194, 1197,
12 1197.1, 510, 1174(d), 2800, and 2802.

13 100. Wage-and-hour laws express fundamental public policies. Paying employees their
14 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public
15 policies of California. Labor Code Section 90.5(a) sets forth the public policies of this State vigorously
16 to enforce minimum labor standards, to ensure that employees are not required or permitted to work
17 under unlawful conditions, and to protect law-abiding employers and their employees from competitors
18 who lower costs to themselves by failing to comply with fair labor standards. Through the conduct
19 alleged in this Complaint Defendants have acted contrary to these public policies, have violated specific
20 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
21 violation of Business & Professions Code § 17200 *et seq.*

22 101. As a result of the herein described violations of California law, Defendants unlawfully
23 gained an unfair advantage over other businesses.

24 102. Plaintiff and the Class have been personally injured by Defendants' unlawful business
25 acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or
26 property.

27 103. Pursuant to California Business & Professions Code Sections 17200, *et seq.*, Plaintiff
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1 and the Class are entitled to restitution of the wages withheld and retained by Defendants during a
2 period that commences four years prior to the filing of this Complaint; an award of attorneys' fees
3 pursuant to California Code of Civil Procedure Section 1021.5 and other applicable laws; and an award
4 of costs.

5 **EIGHT CAUSE OF ACTION**

6 **(Violation of California Labor Code §§ 2698, et seq.)**

7 **(Against All Defendants)**

8 104. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
9 and every allegation set forth above.

10 105. Plaintiff brings his seventh cause of action as a representative action on behalf of
11 himself and similarly Aggrieved Employees in the capacity as a private attorney general pursuant to
12 the Private Attorneys General Act of 2004, California Labor Code Section 2698, *et seq.* ("PAGA").

13 106. PAGA specifically provides for a private right of action to recover civil penalties for
14 violations of the Labor Code as follows: "Notwithstanding any other provision of law, any provision
15 of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
16 Development Agency or any of its departments, divisions, commissions, boards, agencies, or
17 employees, for a violation of this code, may, as an alternative, be recovered through a civil action
18 brought by an aggrieved employee on behalf of himself or herself and other current or former
19 employees pursuant to the procedures specified in Section 2699.3." Cal. Lab. Code § 2699(a).

20 107. Plaintiff was employed by Defendants and the Labor Code violations alleged above were
21 committed against him during his time of employment. Plaintiff is therefore, an "aggrieved employee"
22 under PAGA.

23 108. As set forth in detail above, during all times relevant to this action, Defendants have
24 routinely subjected Plaintiff and the Aggrieved Employees to violations of California Labor Codes by,
25 among other things:

- 26 a. Failing to pay Plaintiff and the Aggrieved Employees all earned minimum wage
27 compensation in violation of Labor Code §§ 1194 and 1198 et seq.

- 1 b. Failing to pay Plaintiff and the Aggrieved Employees all earned overtime compensation
2 in violation of Labor Code §§ 204, 510, 1194, and 1198 *et seq.*
- 3 c. Failing to provide legally required and compliant meal periods to Plaintiff and the
4 Aggrieved Employees, and failing to pay Plaintiff and the Aggrieved Employees an
5 additional hour of premium pay for meal period violations in violation of Labor Code
6 §§ 226.7 and 512.
- 7 d. Failing to provide authorize and permit Plaintiff and the Aggrieved Employees to take
8 duty-free and compliant rest periods, and failing to pay Plaintiff and the Aggrieved
9 Employees an additional hour of premium pay for rest period violations in violation of
10 Labor Code §§ 226.7 and 512.
- 11 e. Failing to timely pay Plaintiff and the Aggrieved Employees all wages at the end of
12 their employment in violation of Labor Code § 203.
- 13 f. Failing to timely pay Plaintiff and the Aggrieved Employees all wages owed during
14 employment in violation of Labor Code § 204.
- 15 g. Failing to furnish Plaintiff and the Aggrieved Employees with complete, accurate,
16 itemized wage statements in violation of Labor Code § 226.
- 17 h. Failing to maintain accurate records relating to Plaintiff and the Aggrieved Employees’
18 work periods, meal periods, total daily hours, hours per pay period, total wages and
19 compensation, and applicable pay rates in violation of Labor Code § 1174(d) and the
20 applicable IWC Wage Order.

21 109. California Labor Code Sections 2699 and 2699.5, Plaintiff, individually and on behalf of
22 the Aggrieved Employees and the State of California, requests and is entitled to recover penalties against
23 Defendants for the Labor Code violations described above, including but not limited to penalties under
24 California Code of Regulations Title 8 section 11050, penalties under California Labor Code sections
25 2699, 558, 210, 226, 226.3 and 1174.5, and any and all additional penalties and sums as provided by the
26 California Labor Code and/or other statutes. The exact amount of the applicable penalties, in all, is in
27 an amount to be shown according to proof at trial.

110. In accordance with Labor Code Section 2698, *et seq.*, Plaintiff provided written notice to the California Labor and Workforce Development Agency (“LWDA”), by filing a PAGA Notice online on November 3, 2022, a copy of which was sent by certified mail to Defendants, notifying them of the specific provisions of the Labor Code and IWC Wage Order(s) alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff has also paid the \$75.00 fee to the LWDA. Pursuant to Labor Code § 2699.3, no notice has been received and/or will have been received by Plaintiff from the LWDA evidencing its intention to investigate within sixty-five (65) days from the postmark of Plaintiff’s PAGA Notice. Thus, Plaintiff has or will soon have complied with all of the requirements set forth in Labor Code Section 2699.3 to commence and proceed with a representative civil action under the PAGA.

111. Plaintiff by this action seeks to recover, on behalf of himself and all other current and former Aggrieved Employees of Defendants, the civil penalties provided by PAGA.

112. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the Aggrieved Employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff therefore seeks an award of reasonable attorneys’ fees and costs pursuant to Labor Code § 2699, subdivision (g)(1), and any other applicable statute.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other members of the general public similarly situated, and as a private attorney general, prays for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representative of the Class;
3. That counsel for Plaintiff be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

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As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and other Class Members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code Section 1194; and

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

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiff and the Class;

11. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to California Labor Code Section 226.7;

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

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

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code Section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff and the Class;

18. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each

1 employee's regular rate of compensation for each workday that a rest period was not provided;
2 19. For all actual, consequential, and incidental losses and damages, according to proof;
3 20. For premium wages pursuant to California Labor Code Section 226.7;
4 21. For pre-judgment interest on any unpaid wages from the date such amounts were due;
5 and
6 22. For such other and further relief as the Court may deem just and proper.

7 **As to the Fourth Cause of Action**

8 23. That the Court declare, adjudge and decree that Defendants violated California Labor
9 Code Sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the
10 Class;
11 24. For general unpaid wages and such general and special damages as may be appropriate;
12 25. For statutory wage penalties pursuant to California Labor Code Section 1197.1 for
13 Plaintiff and the Class in the amount as may be established according to proof at trial;
14 26. For pre-judgment interest on any unpaid compensation from the date such amounts were
15 due;
16 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
17 Labor Code section 1194(a);
18 28. For liquidated damages pursuant to California Labor Code Section 1194.2; and
19 29. For such other and further relief as the Court may deem just and proper.

20 **As to the Fifth Cause of Action**

21 30. That the Court declare, adjudge and decree that Defendants violated California Labor
22 Code Sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
23 termination of the employment of Plaintiff and other Class Members no longer employed by
24 Defendants;
25 31. For all actual, consequential, and incidental losses and damages, according to proof;
26 32. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff
27 and other Class Members who have left Defendants' employ;
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1 33. For pre-judgment interest on any unpaid compensation from the date such amounts were
2 due; and

3 34. For such other and further relief as the Court may deem just and proper.

4 **As to the Sixth Cause of Action**

5 35. That the Court declare, adjudge and decree that Defendants violated the record keeping
6 provisions of California Labor Code Section 226(a) and applicable IWC Wage Orders as to Plaintiff
7 and the Class, and willfully failed to provide accurate itemized wage statements thereto;

8 36. For actual, consequential and incidental losses and damages, according to proof;

9 37. For statutory penalties pursuant to California Labor Code Section 226(e); and

10 38. For such other and further relief as the Court may deem just and proper.

11 **As to the Seventh Cause of Action**

12 39. That the Court declare, adjudge and decree that Defendants violated California Business
13 and Professions Code Sections 17200, *et seq.* by failing to provide Plaintiff and the Class all overtime
14 compensation due to them, failing to provide all meal and rest periods to Plaintiff and the Class, failing
15 to pay at least minimum wages to Plaintiff and the Class, failing to pay Plaintiff's and other Class
16 Members' wages timely as required by California Labor Code Section 201, 202 and 204 and by
17 violating California Labor Code Sections 226(a), 1174(d), 2800, and 2802;

18 40. For restitution of unpaid wages to Plaintiff and the Class and all pre-judgment interest
19 from the day such amounts were due and payable;

20 41. For the appointment of a receiver to receive, manage and distribute any and all funds
21 disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result
22 of violation of California Business and Professions Code Section 17200, *et seq.*;

23 42. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
24 Code of Civil Procedure Section 1021.5;

25 43. For injunctive relief to ensure compliance with this Section, pursuant to California
26 Business and Professions Code Sections 17200, *et seq.*; and

27 44. For such other and further relief as the Court may deem just and proper.

As to the Eight Cause of Action

45. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of California Labor Code;

46. For the imposition of civil penalties pursuant to California Labor Code §§ 2699, 210, 558, 226, 226.3, 1174.5, and all other penalties allowed by the California Labor Code and/or other applicable statutes; and

47. For such other relief as the Court deems just and proper.

DATED: January 9, 2023

Respectfully submitted,

PROXY LAW FIRM LLP



Rana Nader
Attorneys for Plaintiff ROBERTO
LORENZO CRUZ, individually and on
behalf of others similarly situated

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff demands a jury trial with respect to all issues triable of right by jury.

3
4 DATED: January 9, 2023

5 Respectfully submitted,

6 **PROXY LAW FIRM LLP**

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10 _____
11 Rana Nader
12 Attorneys for Plaintiff ROBERTO
13 LORENZO CRUZ, individually and on
14 behalf of others similarly situated

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On January 9, 2023, I served the following document(s): on the following person or persons: FIRST AMENDED CLASS ACTION COMPLAINT

WOLFE & WYMAN LLP
Peter Garrell, Esq.
Catherine T. Phan, Esq.
Lisa Heathcoat
JoDee Carroll
707 Wilshire Blvd., Suite 4100
Los Angeles CA 90017
Tel: (213) 222-4900
Email: pegarrell@ww.law
Email: ctphan@ww.law
Email: lheathcoat@ww.law
Email: jcarroll@ww.law

☒ **BY ELECTRONIC TRANSMISSION.** Based on an agreement of the parties to accept service by electronic transmission, I electronically served the document(s) to the person(s) at the electronic service address(es) listed above.

☐ **BY OVERNIGHT DELIVERY.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in the attached Proof of Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☐ **BY FAX TRANSMISSION.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax number(s) listed above. No error was reported by the fax machine that I used.

☐ **BY MESSENGER SERVICE.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in the attached Proof of Service List and providing them to a professional messenger service for service.

☐ **BY UNITED STATES MAIL.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in the attached Proof of Service List:

☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepared.

1 ☐ placed the envelope for collection and mailing, following our ordinary business practices.
2 I am readily familiar with this business's practice for collecting and processing correspondence for
3 mailing. On the same day that correspondence is placed for collection and mailing, it is deposited
4 in the ordinary course of business with the United States Postal Service, in a sealed envelope with
postage fully prepaid.

5 I am a resident of and employed in the county where the mailing occurred. The envelope or
6 package was placed in the mail at Los Angeles, California.

7 ☐ **BY PERSONAL SERVICE.** I personally delivered the documents to the persons at the addresses
8 listed in the attached Proof of Service List. (1) For a party represented by an attorney, delivery was made
9 (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or
10 package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge
11 of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by
leaving them in a conspicuous place in the office between the hours of nine in the morning and five in
the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's
residence with some person not younger than 18 years of age between the hours of eight in the morning
and six in the evening.

12 CMC

13 I declare under penalty of perjury under the laws of the State of California, that the foregoing is true
and correct.

14 Executed on January 9, 2023 at Los Angeles, California.

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18 _____
19 Rana Nader
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