

Anna R. Salusky, Esq. (Bar No. 222484)
SALUSKY LAW GROUP
3738 Bayer Avenue, Suite 104
Long Beach, California 90808
Telephone: (562)855-0004/ Facsimile: (562)855-0002
Email: asalusky@saluskylaw.com

Janelle Carney (Bar No. 201570)
JANELLE CARNEY – ATTORNEY AT LAW, APC
14758 Pipeline Ave., Suite E
Chino Hills, CA 91709
Telephone: (909) 521-9609/ Fax: (909) 393-0471
Email: Janelle@JanelleCarneyLaw.com

Attorney for Plaintiff, CARLOS MORAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

CARLOS MORAN, on behalf of himself and all
others similarly situated and the general public,

Plaintiffs,

v.

EKEDAL CONCRETE, INC., a California
corporation; and DOES 1 to 100,

Defendants

Case No.: 30-2025-01499715-CU--OE-CXC
Hon. David A. Hoffer
Dept. CX-103
CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. Violation of B&PC §17200, et seq.;
2. Failure to Pay All Wages (Labor Code §§ 200, et seq., 218, 226, 510, 511, 1194 and 1198, and 2802);
3. Failure to Provide Meal Breaks Labor Code §§226.7 & 512, et seq.
4. Failure to Provide Rest Periods (Labor Code §§226.7 & 512);
5. Inaccurate Wage Statements (LC §226);
6. Failure to Reimburse Necessary Business Expenditures;
7. Waiting Time Penalties
8. Failure to pay Reporting Time
9. Penalties Under PAGA Labor Code §2698, et seq.

1 Plaintiff, Carlos Moran, on behalf of himself and all other persons similarly situated, and
2 the general public, hereby complain against Defendant Ekedal Concrete, Inc. (hereinafter
3 referred to as “Defendant” or “ECI”), and DOES 1 to 100, inclusive, and on information and
4 belief allege as follows:

5 **GENERAL ALLEGATIONS**

6 **JURISDICTION**

7 1. This is a civil action seeking recovery of unpaid wages and waiting time penalties
8 under California Labor Code §§ 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1198, 2802 and the
9 applicable wage order. The Plaintiff for himself and on behalf of the general public, and all
10 others similarly situated, brings an action for monetary damages for failure to pay wages as well
11 as for injunctive relief, declaratory relief and restitution for Defendants’ violations of Business
12 and Professions Code (B&PC) §17200, et seq., including full restitution of all compensation
13 retained by Defendants, as a result of its unlawful, fraudulent and unfair business practices.
14 Plaintiff seeks all available relief, including full damages, full restitution and/or disgorgement of
15 all revenues, earnings, profits, compensation and benefits retained by Defendant as a result of
16 their unlawful, unfair business practices. Further, Plaintiff seeks injunctive relief under B&PC
17 §17200, et seq.

18 **VENUE**

19 2. Venue as to the Defendant is proper in this judicial district pursuant to California
20 Code of Civil Procedure (CCP) §§ 395(a) and 395.5, as at least some of the acts complained of
21 herein occurred in the County of Orange. Defendant either owns or maintains offices, transacts
22 business, has an agent or agents within the County of Orange, or otherwise is found within the
23 County of Orange and Defendant is within the jurisdiction of this Court for purposes of service
24 of process.

25 **PARTIES**

26 3. Carlos Moran is an individual over the age of eighteen (18). At all relevant times
27 herein, Plaintiff Moran was a resident of the County of Los Angeles, State of California.

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1 4. Plaintiff is informed and believes and thereon alleges that at all times mentioned
2 herein, Defendant, Ekedal Concrete, Inc., a California Corporation, is and was a California
3 corporation.

4 5. Plaintiff is informed and believes and thereon alleges that at all times mentioned
5 herein, Defendant and each of them listed herein are professional entities licensed to do business
6 in California.

7 6. Plaintiff is informed and believes and thereon alleges that at all relevant times
8 each Defendant was licensed to do business in the State of California, County of Orange, with its
9 principal place of business in Irvine, California, among other counties throughout the State of
10 California.

11 7. Plaintiff is informed and believes ECI is and was the employer of the Plaintiff and
12 Plaintiff Class during the Class Period. During the liability period, Defendant employed Plaintiff
13 and similarly situated persons and due to Defendant's uniform payroll practices, deprived
14 Plaintiff and the Class of proper overtime, required Plaintiff and Plaintiff Class to work off-the-
15 clock, failed to schedule Plaintiff and Plaintiff Class in such a manner that allowed Plaintiff and
16 Plaintiff Class to receive and/or take their meal and/or rest breaks, Plaintiff and Plaintiff Class
17 were not provided and/or denied work free meal and rest breaks. Defendant failed to pay
18 Plaintiff and Plaintiff class premiums for missed meal and rest breaks. Defendant also failed to
19 pay Plaintiff and Plaintiff Class proper overtime, as required under California law, as Defendant
20 required off-the-clock work. Defendant failed to pay Plaintiff and the Class for Reporting Time
21 Pay on shifts where employees were sent home early, and failed to reimburse Plaintiff and
22 Plaintiff Class for out-of-pocket expenses. Defendant also failed to pay due and owed wages
23 upon ending of employment for employees within California. On information and belief and
24 based thereon alleges that Defendant is conducting business in good standing in California.

25 8. Plaintiff is informed and believes and thereon alleges that Defendant and DOES 1
26 to 100, control and operate business and establishments in locations within the State of
27 California, including, but not limited to, the County of Orange, for the purposes of construction
28 services. Thus, each named Defendants and DOES 1 to 100 are subject to B&PC §17200, et seq.

1 (Unfair Competition Law) and the Labor Code as hereinafter alleged.

2 9. Plaintiff does not know the true names or capacities, whether individual, partner,
3 or corporate, of Defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
4 Defendants are sued under such fictitious names, and Plaintiff will seek from this Court leave to
5 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
6 and believes and thereon alleges that each Defendant and each fictitious Defendant, whether
7 individual, partners, or corporate, was responsible in some manner for the circumstances alleged
8 herein, and proximately caused Plaintiff and all others similarly situated hereinafter alleged and
9 the general public to be subjected to the unlawful employment practices, wrongs, injuries and
10 damages complained of herein.

11 10. At all times herein mentioned, each of said Defendants participated in the doing
12 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
13 Defendants, and each of them, were the agents, servants, and employees of each and every one of
14 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
15 were acting within the course and scope of said agency and employment. Plaintiff herein alleges
16 that Defendants and each of them are the joint employer of Plaintiff and the classes.

17 11. At all times mentioned herein, Defendants, and each of them, were members of
18 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
19 and scope of and in pursuance of said joint venture, partnership, and common enterprise.

20 12. At all times herein mentioned, the acts and omissions of various Defendants, and
21 each of them, concurred and contributed to the various acts and omissions of each and every one
22 of the other Defendants in proximately causing the complaints, injuries and damages alleged
23 herein.

24 13. At all times herein mentioned, Defendants, and each of them, approved of,
25 condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
26 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts
27 and omissions of each and every one of the other Defendants, thereby proximately causing the
28 damages, as herein alleged.

1 **PRIVATE ATTORNEY GENERAL ALLEGATIONS**

2 14. Plaintiff on behalf of himself and all others similarly situated, filed this cause of
3 action acting as a private attorney general on behalf of the general public to challenge and
4 remedy the business practices of Defendant alleged herein.

5 15. B&PC §17200, et seq., often referred to as the Unfair Competition Law, prohibits
6 unfair competition, which is defined to include any unlawful, unfair, or fraudulent business act or
7 practices. Defendant have instituted and implemented unlawful wage-and-hour policies, which
8 constitute unfair, unlawful, or fraudulent business acts or practices within the State of California.
9 Any person that has suffered injury may initiate an action to enforce B&PC §17200. The court is
10 authorized to order injunctive relief, declaratory relief, and restitution to affected members of the
11 general public as remedies for any violations of B&PC §17200.

12 16. Plaintiff is entitled to an award of attorneys' fees and costs in prosecuting this
13 action as a private attorney general against Defendants under CCP §1021.5 based in part on the
14 following:

15 a. A successful outcome in this action will result in the enforcement of
16 important rights affecting the public interest by maintaining the integrity of entities that employ
17 employees;

18 b. This action will result in a significant benefit to the general public by
19 ceasing unlawful, unfair and deceptive activity, and by causing the return of ill-gotten gains
20 obtained by Defendants through their failure to properly pay their employees;

21 c. Unless this action is prosecuted, members of the general public will not
22 recover monies wrongfully taken from them, and many employees and consumers would not be
23 aware that they were victimized by Defendants' wrongful acts and practices; and unless
24 attorneys' fees and costs are awarded against Defendants, the general public will not be made
25 whole.

26 **PLAINTIFF CLASSES**

27 17. The class representative Plaintiff who worked in the position of non-exempt
28 hourly employee, while employed by Defendant within the State of California, is Carlos Moran.

1 **CLASS ACTION ALLEGATIONS**

2 18. Plaintiff brings this action on behalf of himself and all others similarly situated as
3 a class action pursuant to CCP §382. The Classes which Plaintiff seeks to represent are
4 composed of and defined as follows:

5 **Class 1:**

6 All California based non-exempt hourly employees of Defendant who worked in
7 California at least one (1) day of more than eight (8) hours in a day or more than forty (40) hours
8 in a week from four (4) years preceding the filing of this Complaint through the date of class
9 certification order and were not paid proper premium overtime. ("Overtime Class")

10 **Class 2:**

11 All non-exempt hourly employees of Defendant who worked in California at any time
12 from four (4) years preceding the filing of this Complaint through the date of class certification
13 order who were not provided legally-compliant meal periods within five (5) hours of starting
14 their shift. ("Meal Break Class")

15 **Subclass 1:**

16 All non-exempt hourly employees of Defendant who worked in California at any time
17 from four (4) years preceding the filing of this Complaint through the date of class certification
18 order who were required to work through their meal breaks and/or remain on-premises for their
19 meal breaks. ("On-Duty/ On Premises Meal Break Class")

20 **Class 3:**

21 All non-exempt hourly employees Defendant who worked in California at any time from
22 four (4) years preceding the filing of this Complaint through the date of class certification order,
23 who were not provided with 10-minute rest periods for every 4 hours of work or major fraction
24 thereof. ("Rest Break Class")

25 **Subclass 2:**

26 All non-exempt hourly employees Defendant who worked in California at any time from
27 four (4) years preceding the filing of this Complaint through the date of class certification order,
28

who were required to work through rest breaks, and/or remain on premises for their rest breaks.
("On Duty/ On Premises Rest Break Class")

Class 4:

All California based non-exempt hourly employees of Defendant who worked in California at any time from one (1) year preceding the filing of this Complaint through the date of class certification order who were provided a paystub (a.k.a. wage statement) from Defendant.
("Pay Stub Class")

Class 5:

All California based non-exempt hourly employees of Defendant who worked for Defendants during the time period from four (4) years preceding the filing of this Complaint through the date of the class certification order, who were not reimbursed for out-of-pocket necessary business expenses. ("Reimbursement Class")

Class 6:

All California based non-exempt hourly employees of Defendant who worked for Defendant during the time period from three (3) years preceding the filing of this Complaint through the date of the class certification order, who are no longer employed by Defendants and were not paid all their earned wages. ("Waiting Time Penalty Class")

Class 7:

All California based non-exempt hourly employee of Defendant who worked for Defendant during the time period from four years preceding the filing of this Complaint through the date of the class certification order, who were scheduled to report to work but who were not put to work or furnished with less than half of their usual or scheduled day's work because of inadequate scheduling or lack of proper notice by the employer and did not receive reporting time pay as required by law. ("Reporting Time Pay Class")

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Class 8:

All California based non-exempt hourly employee of Defendant who worked for Defendant during the time period from four years preceding the filing of this Complaint through the date of the class certification order, who worked off the clock in pre and post shift duties. (“Minimum Wage/Off-the-Clock Class”)

The members of the classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes is unknown to Plaintiff at this time; however, it is estimated that the classes number greater than 100 individuals. The identity of such membership is readily ascertainable via inspection of Defendant’s employment records.

19. There are common questions of law and fact as to Plaintiff and all others similarly situated which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants violated the applicable Labor Code provisions including §510 and 1194 by requiring substantial overtime work and not paying for said work according to the overtime laws of the State of California;
- ii. Whether Defendant failed to pay the appropriate straight time and premium overtime compensation to the non-exempt hourly employees;
- iii. Whether Defendant required Plaintiff and all others similarly situated to work off-the-clock;
- iv. Whether Defendant improperly retained, appropriated or deprived Plaintiff of the use of monies or sums to which Plaintiff were legally entitled;
- v. Whether Defendant engaged in unfair business practices;
- vi. Whether Defendant, and each of them, were participants in the alleged unlawful conduct;
- vii. Whether Defendant’s conduct was willful or reckless;
- viii. The effect upon and the extent of injuries suffered by Plaintiff and all others similarly situated and the appropriate amount of compensation;

- ix. The appropriate amount of monetary penalties allowed by Labor Code §§201, et. seq. and 226;
- x. Whether Defendant violated Labor Code §226 and relevant IWC Wage Orders by failing to, among other violations, accurately report total hours worked by Plaintiff and the members of the Plaintiff class;
- xi. Whether Defendants willfully violated provisions of the California Labor Code;
- xii. Whether Defendant fails to provide regularly compliant meal periods;
- xiii. Whether Defendant fails to authorize and permit legally compliant rest period breaks;
- xiv. Whether Defendant failed to reimburse its hourly non-exempt employees for out-of-pocket expenses; and
- xv. Whether Defendant failed to pay its hourly employees for Reporting Time Pay; and
- xvi. Whether Defendant is subject to civil penalties pursuant to Labor Code §§2699, et seq.

20. Plaintiff's claims are typical of the claims of all members of the classes and subclasses mentioned herein. Plaintiff, as a representative party, will fairly and adequately protect the interest of the classes by vigorously pursuing this suit through his attorneys who are skilled and experienced in handling matters of this type. Plaintiff has no claims or interests that are antagonistic to any class member.

21. The nature of this action and the nature of laws available to the members of the classes and subclasses identified herein make use of the class action format a particularly efficient and appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein. Further, this claim involves a large corporate employer, Defendant, and a large number of individual employees (Plaintiff and all others similarly situated) with many relatively small claims with common issues of law and fact. If each employee were required to file an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage since it

1 would be able to exploit and overwhelm the limited resources of each individual Plaintiff with
2 their vastly superior financial and legal resources. Requiring each class member to pursue an
3 individual remedy would also discourage the assertion of lawful claims by employees who
4 would be disinclined to pursue an action against their present and/or former employer for an
5 appreciable and justifiable fear of retaliation and permanent damage to their careers at present
6 and/or subsequent employment. Proof of a common business practice or factual pattern, of
7 which the named Plaintiff experienced, is representative of the class mentioned herein and will
8 establish the right of each of the members of the named class to recovery on the causes of action
9 alleged herein.

10 22. The prosecution of separate actions by the individual class members, even if
11 possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with
12 respect to the individual class members against Defendants herein; and which would establish
13 potentially incompatible standards of conduct for Defendants; and/or (b) legal determinations
14 with respect to individual class members which would, as a practical matter, be dispositive of the
15 interest of the other class members not parties to adjudications or which would substantially
16 impair or impede the ability of the class members to protect their interests. Further, the claims of
17 the individual members of the class are not sufficiently large to warrant vigorous individual
18 prosecution considering all of the concomitant costs and expenses attending thereto.

19 23. Plaintiff and all others similarly situated are entitled to the wages and other
20 monies unlawfully withheld. This action is brought for the benefit of the public.

21 **FIRST CAUSE OF ACTION**

22 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §17200, ET SEQ.**

23 **(Against All Defendants)**

24 24. Plaintiff re-alleges and incorporates by reference herein the allegations of all
25 preceding paragraphs as though fully set forth herein.

26 25. Beginning on an exact date unknown to Plaintiff but believed to have occurred at
27 least since four (4) years before the filing of this action, Defendants have engaged in a pattern
28 and practice of acts of unfair competition in violation of B&PC §17200, including the practices

1 alleged herein.

2 **FAILURE TO PAY PROPER WAGES, PREMIUM PAY AND OVERTIME**

3 **COMPENSATION**

4 26. Plaintiff is informed and believe and thereon allege that as part of Defendant's
5 ongoing unfair business practices, Defendant's non-exempt hourly employees were and are
6 employed and scheduled as a matter of established company policy to work, and in fact, worked
7 shifts in excess of eight (8) hours a day, including but not limited to shifts lasting ten (10) hours
8 and twelve (12) hours.

9 27. Defendant's policy is to pay straight time for all hours worked in excess of eight
10 (8) hours per day, both straight time (first eight (8) hours) and overtime (last four (4) hours) pay
11 is paid at the base hourly rate which is lower than required by law due to Defendant's failure to
12 pay daily overtime hours at time-and-a-half of the employees' correct regular rate of pay. The
13 mathematical result of this practice is that employees are underpaid their earned statutory
14 overtime premium wages. Defendant's mathematical scheme is in violation of the Labor Code.
15 Defendant's employees are not paid proper overtime compensation at the correct rate. The
16 "regular rate" means "the hourly rate actually paid for the normal, non-overtime workweek."
17 (See *Walling v. Youngerman-Reynolds Hardwood Co.*, 325 U.S. 419, 424 (1945) ("[T]he regular
18 rate refers to the hourly rate actually paid the employee for the normal, non-overtime workweek
19 for which he is employed.") (emphasis added); *United States v. Rosenwasser*, 323 U.S. 360, 364
20 (1945) (defining the "regular rate" is defined as "the hourly rate actually paid for the normal,
21 non-overtime workweek.") (quotation omitted) (emphasis added); *Huntington Memorial Hosp. v.*
22 *Superior Court*, (2005) 131 Cal.App.4th 893, 905 (regular rate is the hourly rate paid for a non-
23 overtime workweek); *Brunozzi v. Cable Communications, Inc.*, 851 F.3d 990, 996 (9th Cir.
24 2017) (To determine the regular rate, "we must first determine what the parties agreed [the
25 employee] is to be paid in a normal, non-overtime workweek.") (emphasis added).) "Wage
26 divided by hours equals regular rate." (*Bay Ridge*, 334 U.S. at 461 (quotation omitted).) The
27 employer may not "compute the regular rate in a wholly unrealistic and artificial manner so as to
28 negate the statutory purposes." (*Walling*, 325 U.S. at 424.) The regular rate "must reflect all

1 payments which the parties have agreed shall be received regularly during the workweek,
2 exclusive of overtime payments." (*Id.*) The regular rate "is not an arbitrary label chosen by the
3 parties; it is an actual fact. Once the parties have decided upon the amount of wages and the
4 mode of payment the determination of the regular rate becomes a matter of mathematical
5 computation" (*Id.* at 244-45.) "The regular hourly rate of pay of an employee is determined
6 by dividing his total remuneration for employment (except statutory exclusions) in any
7 workweek by the total number of hours actually worked by him in that workweek for which such
8 compensation was paid." (29 C.F.R. § 778.109.)

9 28. Plaintiff believes and thereon alleges that Defendant fails to include all
10 remuneration into the calculation of the regular rate for overtime, meal and rest period premium
11 payments, including but not limited to, differentials, bonuses, and other pay.

12 29. Further, Plaintiff alleges that EDI failed to pay overtime and minimum wages for
13 time spent off the clock doing pre and post shift work related duties.

14 **VIOLATION OF MEAL PERIOD PROVISIONS**

15 30. Defendant's improper meal policies are in violation of California law including,
16 but not limited to Labor Code § 226.7, 512, and IWC Wage Order 16-2001. Plaintiff and all
17 others similarly situated these classes are entitled to wages at their regular rate of pay for each
18 violation where Defendants violated the meal break provisions and failed to provide a compliant
19 meal period due interrupted, impeded or on premises meal periods that deprived Plaintiff and the
20 class of statutory meal periods. Plaintiff and the class are entitled to one (1) hour of pay for
21 each meal break violation at the correct regular rate of pay.

22 **FAILURE TO PERMIT AND AUTHORIZE REST PERIOD BREAKS**

23 31. Plaintiff and other members of the Rest Period Class are entitled to the benefits of
24 Labor Code § 226.7 and Order 16-2001 of the Industrial Welfare Commission. Pursuant to
25 Labor Code § 226.7 and Wage Order 16-2001, Plaintiff and the other members of the Rest
26 Period Class were entitled to separate rest periods of at least 10 minutes for each four-hour
27 period of work or major fraction thereof, and one hour of additional pay for every shift a rest
28 period was not provided in conformance with this obligation.

1 32. Plaintiff is informed and believes, and thereon allege that Defendants consistently
2 compelled Plaintiff and other members of the Rest Period Class employed for shifts of more than
3 four (4) hours, to take only one (1) rest break during their shifts, instead of two (2) or three (3)
4 rest breaks required depending on shift length. Further, Plaintiff alleges Defendant failed to
5 provide duty-free rest periods and off-site rest periods to Plaintiff and the class.

6 **FAILURE TO PAY FOR ALL TIME WORKED (OFF THE CLOCK)**

7 33. Plaintiff is informed and believes and thereon alleges, that at all times herein
8 mentioned, Defendant engaged in unlawful, unfair, and fraudulent business practices prohibited
9 by California B&PC §17200, by failing to pay for time worked off-the-clock. Defendant
10 suffered or permitted Plaintiff to work off the clock in pre and post shift work duties.

11 34. Further, Plaintiff is informed and believes and thereon alleges, that Plaintiff was
12 required to perform work off-the-clock. Defendant failed to pay Plaintiff for all time worked,
13 including but not limited to minimum wages and /or overtime.

14 **WORK EXPENSE REIMBURSEMENT VIOLATIONS**

15 **(Violation of Labor Code § 2802)**

16 35. Labor Code § 2802(a) requires “[a]n employer [to] indemnify his or her employee
17 for all necessary expenditures or losses incurred by the employee in direct consequence of the
18 discharge of his or her duties, or of his or her obedience to the directions of the employer, even
19 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
20 unlawful.”

21 36. Defendant and each of them required Plaintiff and Plaintiff Class to incur out of
22 pocket expenses in connection with their employment, including but not limited to being
23 required to use their own cellular phones, without reimbursement from Defendant, purchase their
24 own tools, cover mileage between job sites, and failed to provide water on job sites.

25 37. Despite requiring Plaintiff to incur out-of-pocket, Defendant failed to reimburse
26 Plaintiff for the cost of such work-related expenses.

27 38. Accordingly, Plaintiff and Plaintiff Class are entitled to full compensation for
28 necessary out-of-pocket costs in connection with their employment at the direction of Defendant,

1 in an amount to be proven at trial, plus attorney fees, costs of suit, and interest, pursuant to Labor
2 Code § 2802.

3 **FAILURE TO PAY REPORTING TIME PAY**

4 39. Defendants, and each of them, have failed to pay their employees reporting time
5 pay when the employees report to work and are then sent home and/or work less than their usual
6 shift including being required to come for a job and being sent home after arrival. Plaintiff is
7 informed, believes, and thereon alleges that defendants are in violation of the applicable Wage
8 Order (16-2001), Section 5. Plaintiff and the classes are entitled to all earned reporting time
9 wages according to proof.

10 40. Plaintiff is informed and believes and thereon alleges that at all times herein
11 mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices
12 prohibited by California B&PC §17200, thereby depriving their employees and the putative class
13 the minimum working condition, standards and conditions due to them under the California
14 Labor Laws and Industrial Welfare Commission wage orders as specifically described herein.
15 Plaintiff further seeks an order requiring Defendant to identify by full name, telephone number,
16 and last known address employees who worked or still work for Defendant from four (4) years
17 preceding the filing of the original Complaint through the date of judgment; Plaintiff further
18 seeks an order requiring Defendant to timely pay restitution to all current and former employees,
19 including back wages, and interest.

20 41. Plaintiff, and all persons similarly situated, and all persons in interest, are entitled
21 to and do seek such relief as may be necessary to restore to them the money and property which
22 Defendant has acquired, or of which Plaintiff and class members have been deprived by means
23 of the herein described unfair, unlawful, and/or fraudulent business practices.

24 42. Plaintiff seeks restitution for said violations. Plaintiff requests attorney's fees and
25 costs pursuant to Code of Civil Procedure §1021.5 since this action is brought to vindicate
26 important rights of a large class and the public.

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FAILURE TO PAY ALL WAGES AND OVERTIME COMPENSATION

(Labor Code section 200, et. seq., 218, 226, 510, 511, 1194, 1198, 2802)

(Against All Defendants)

43. Plaintiff re-alleges and incorporates by reference herein the allegations of all preceding paragraphs as though fully set forth herein.

44. Plaintiff and all others similarly situated identified herein were and are employed and scheduled as a matter of established company policy to work and in fact worked as non-exempt hourly employees in excess of eight (8) hours per day and/or in excess of forty (40) hours per pay period, including shifts that last ten (10) hours or twelve (12) hours without daily overtime paid for the hours worked in excess of eight (8) in a day at the correct regular rate. Labor Code § 204 establishes the fundamental right of all employees in the state of California to be paid the proper amount of wages in a timely fashion for their work, including overtime.

45. Plaintiff is informed and believes and thereon alleges that the hourly non-exempt class was underpaid due to Defendant's willful and wrongful underpayment of overtime premiums at an incorrect regular rate in order to avoid payment of overtime wages and other benefits in violation of the Labor Code and the orders issued by the IWC, thereby Defendant is able to reduce its overhead and operating expenses and gain an unfair advantage over competing companies complying with state law.

46. Plaintiff is informed and believes and thereon alleges that the hourly non-exempt class was under paid premium overtime compensation at a lower rate of pay than the regular rate when Defendant paid overtime. The "regular rate" means "the hourly rate actually paid for the normal, non-overtime workweek." (Id. (emphasis added); see also *Walling v. Youngerman-Reynolds Hardwood Co.*, 325 U.S. 419, 424 (1945) ("[T]he regular rate refers to the hourly rate actually paid the employee for the normal, non-overtime workweek for which he is employed.") (emphasis added); *United States v. Rosenwasser*, 323 U.S. 360, 364 (1945) (defining the "regular rate" is defined as "the hourly rate actually paid for the normal, non-overtime workweek.") (quotation omitted) (emphasis added); *Huntington Memorial Hosp. v. Superior Court*, (2005)

1 131 Cal.App.4th 893, 905 (regular rate is the hourly rate paid for a non-overtime workweek);
2 *Brunozzi v. Cable Communications, Inc.*, 851 F.3d 990, 996 (9th Cir. 2017) (To determine the
3 regular rate, "we must first determine what the parties agreed [the employee] is to be paid in a
4 normal, non-overtime workweek.") (emphasis added).) "Wage divided by hours equals regular
5 rate." (*Bay Ridge*, 334 U.S. at 461 (quotation omitted).) The employer may not "compute the
6 regular rate in a wholly unrealistic and artificial manner so as to negate the statutory purposes."
7 (*Walling*, 325 U.S. at 424.) The regular rate "must reflect all payments which the parties have
8 agreed shall be received regularly during the workweek, exclusive of overtime payments." (Id.)
9 The regular rate "is not an arbitrary label chosen by the parties; it is an actual fact. Once the
10 parties have decided upon the amount of wages and the mode of payment the determination of
11 the regular rate becomes a matter of mathematical computation" (Id. at 244-45.) "The
12 regular hourly rate of pay of an employee is determined by dividing his total remuneration for
13 employment (except statutory exclusions) in any workweek by the total number of hours actually
14 worked by him in that workweek for which such compensation was paid." (29 C.F.R. §
15 778.109.)

16 47. Plaintiff is informed and believes and thereon alleges that Defendant consistently
17 administered a corporate policy regarding both staffing levels and duties and responsibilities of
18 the members of the classes which required the entirety of all classes to work without overtime or
19 minimum wages, by working off-the-clock for pre and post shift work related duties. Thus,
20 Plaintiff and all others similarly situated routinely, regularly and customarily performed overtime
21 work. Accordingly, Plaintiff and all others similarly situated are entitled to overtime and
22 minimum wage compensation under California law.

23 48. Pursuant to Labor Code §§ 218 and 1194(a), Plaintiff may bring a civil action for
24 overtime wages directly against the employer without first filing a claim with the Division of
25 Labor Standards Enforcement (hereinafter "DLSE") and may recover such wages, together with
26 interest thereon, penalties, attorneys' fees and costs.

27 49. At all times relevant hereto, Defendant has failed to pay to Plaintiff and all
28 persons similarly situated wages when due as required by Labor Code § 204.

1 50. Pursuant to Labor Code § 1198, it is unlawful to employ persons for longer than
2 the hours set by the IWC or under conditions prohibited by the applicable IWC Wage Orders.
3 IWC Wage Order No. 16, as amended, applies to Plaintiff.

4 51. At all times relevant hereto, Plaintiff is informed and believes and thereon alleges
5 that Defendant has treated Plaintiff and all other similarly situated hourly employees as hourly
6 non-exempt employees. Despite this classification, Defendants have willfully and wrongfully
7 underpaid overtime premiums at the regular rate in order to avoid payment of overtime wages
8 and other benefits in violation of the Labor Code and the orders issued by the IWC, thereby
9 Defendant is able to reduce its overhead and operating expenses and gain an unfair advantage
10 over competing companies complying with state law.

11 52. Plaintiff is informed and believes and thereon alleges that Defendant consistently
12 administered a corporate policy regarding both staffing levels and duties and responsibilities of
13 the members of the classes which required the entirety of all classes to work overtime without
14 proper premium pay at the correct regular rate. This included a uniform corporate policy and
15 practice of allocating straight time only hourly rate for all hours worked in a day in excess of
16 eight (8) hours and for carrying out a policy that fails to pay overtime premiums. This corporate
17 policy and pattern of conduct was/is accomplished with the advance knowledge and design of all
18 Defendants herein. Thus, Plaintiff and all others similarly situated routinely, regularly and
19 customarily performed overtime work. Accordingly, Plaintiff and all others similarly situated
20 are entitled to overtime compensation under California law.

21 53. Defendant has willfully failed to pay the earned and unpaid wages of such
22 individuals, including, but not limited to premium pay at the correct rate, and other wages earned
23 and remaining uncompensated according to amendment, or proof.

24 54. The pattern, practice and uniform administration of corporate policy regarding
25 illegal employee compensation as described herein is unlawful and creates an entitlement to
26 recovery by Plaintiff and all others similarly situated, in a civil action, for the unpaid balance of
27 the full amount of the all wages owing, including the proper calculation of the regular rate,
28 including interest thereon, willful penalties, reasonable attorneys' fees, and costs of suit

1 according to the mandate of Labor Code § 1194, et. seq.

2 55. Likewise, Defendant has a pattern, practice and uniform administration of
3 corporate policy regarding failure to comply with the required provisions of Labor Code § 226.7,
4 in failing to pay Plaintiff and the class the meal and rest break violation payment at the regular
5 rate.

6 **THIRD CAUSE OF ACTION**

7 **VIOLATION OF MEAL PERIOD PROVISIONS**

8 **(Against All Defendants)**

9 56. Plaintiff re-alleges and incorporates by reference herein the allegations of all
10 preceding paragraphs as though fully set forth herein.

11 57. Defendant's improper meal policies are in violation of California law including,
12 but not limited to Labor Code § 226.7, 512, and IWC Wage Order 16. The Plaintiff and the
13 members of the class are entitled to a thirty-minute meal period for every five (5) hours of their
14 shift worked. Defendant violated the meal break provisions and did not provide Plaintiff and the
15 class with duty free meal periods for every five (5) hours of their shift worked. Plaintiff and the
16 class were entitled to one (1) hour of pay for each meal break violation at their regular rate of
17 pay.

18 58. Defendant failed to provide, impeded and/or discouraged Plaintiff and others from
19 taking timely meal breaks of not less than thirty (30) minutes as required by the Labor Code
20 during the relevant class period and/or failed to obtain legal waivers waiving the first or second
21 meal period in a shift in excess of 10 hours. Additionally, Defendant required Plaintiff and the
22 class to stay on the premises for their meal, resulting in failure to provide duty-free meal periods
23 without an exemption. Defendant fails to provide hourly employees with duty-free meals and/or
24 failed to obtain valid on-duty meal agreements.

25 **FOURTH CAUSE OF ACTION**

26 **FAILURE TO PERMIT AND AUTHORIZE REST PERIOD BREAKS**

27 **(Against All Defendants)**

28 59. Plaintiff re-alleges and incorporates by reference as if fully set forth herein, the

1 aforementioned allegations.

2 60. The Plaintiff alleges that Defendants have violated Labor Code §§226.7 & the
3 applicable Wage Order. Section 226.7 of the Labor Code requires an employer to pay an
4 additional hour (1) of compensation for each rest period the employer fails to provide. Hourly
5 non-exempt employees are entitled to a paid ten (10) minute rest break for every four (4) hours
6 worked or major fraction thereof. The Defendant's policy discourages, dissuades, and prevents
7 all hourly non-exempt employees from taking a duty-free rest period break for any work period
8 that is greater than two (2) hours up to four (4) hours. Plaintiff and the class consistently worked
9 over four (4) hours per shift with no duty-free, off-premises rest breaks, due to Defendant's
10 policy of discouraging, dissuading and/or preventing hourly employees from taking said breaks
11 off-premises.

12 61. Further, even if rest premiums were paid, they were not paid at the correct regular
13 rate.

14 62. Pursuant to Labor Code §226.7, Plaintiff and the class are entitled to damages in
15 an amount equal to one (1) hour of wages at the hourly non-exempt regular rate of pay per rest
16 break violation, in a sum to be proven at trial.

17 **FIFTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

19 **PURSUANT TO LABOR CODE §226**

20 **(Against All Defendants)**

21 63. Plaintiff re-alleges and incorporates by reference herein the allegations of all
22 preceding paragraphs as though fully set forth herein.

23 64. The applicable Wage Order provides:

24 Every employer shall semimonthly or at the time of each payment of wages
25 furnish each employee, either as a detachable part of the check, draft, or voucher
26 paying the employee's wages, or separately, an itemized statement in writing
27 showing: (1) all deductions; (2) the inclusive dates of the period for which the
28 employee is paid; (3) the name of the employee or the employee's social security
 number; and (4) the name of the employer, provided all deductions made on
 written orders of the employee may be aggregated and shown as one item.
 Subsection (e) provides: "Any employee suffering injury as a result of a
 knowing and intentional failure by an employer to comply with subdivision (a)

1 shall be entitled to recover the greater of all actual damages or fifty dollars (\$50)
2 for the initial pay period in which a violation occurs and one hundred dollars
3 (\$100) per employee for each violation in a subsequent pay period, not exceeding
4 an aggregate penalty of four thousand dollars (\$4,000), and shall be entitled to an
5 award of costs and reasonable attorney's fees."

6 65. During the Class Period, Defendant knowingly and intentionally failed to provide
7 Plaintiff and the class members, including Plaintiff, with timely and accurate wage statements
8 showing gross wages earned, total hours worked, all deductions made, net wages earned, and all
9 applicable hourly rates in effect during each pay period and the corresponding number of hours
10 worked at each hourly rate by that Class Member. The wage statements provided to Plaintiff
11 failed to state the words "total hours worked" as required by California Labor Code §226.

12 66. Defendant thus required the Class Members, including Plaintiff, to work under
13 conditions prohibited by order of the Industrial Welfare Commission, in violation of those
14 orders.

15 67. The Class Members, including Plaintiff, suffered injury as a result of Defendants'
16 knowing and intentional failure to provide the Class Members, including Plaintiff, with the wage
17 statements required by law.

18 68. Based on Defendant's conduct as alleged herein, Defendant is liable for actual
19 damages, statutory damages and/or statutory penalties pursuant to California Labor Code §226,
20 including attorney's fees and costs.

21 **SIXTH CAUSE OF ACTION**

22 **WORK EXPENDITURE REIMBURSEMENTS**

23 **(Against All Defendants)**

24 69. Plaintiff re-alleges and incorporate each and every one of the allegations of all
25 preceding paragraphs.

26 70. Labor Code section 2802(a) requires an employer to indemnify their employees
27 for all necessary expenditures or losses in the direct discharge of their duties.

28 71. Defendant had a uniform policy that requires Plaintiff and the class members to
use their own cellular phones, without reimbursement from Defendant, and purchase their own
tools, cover mileage between job sites, and failed to provide water on job sites.

1 72. As a result, Plaintiff and the class members are entitled to reimbursement for all
2 the above expenses, as well as attorney fees.

3 **SEVENTH CAUSE OF ACTION**

4 **WAITING TIME PENALTIES**

5 **(Against All Defendants)**

6 73. Plaintiff re-alleges and incorporates by reference as if fully set forth herein, the
7 allegations of the preceding paragraphs.

8 74. Labor Code §§ 200, et. seq., provides that an employer is required to pay an
9 employee all wages (including accrued vacation), within twenty four (24) hours of the
10 employees' involuntary separation from employment; within twenty four (24) hours of his or her
11 voluntary separation if the employee gave at least seventy two (72) hours' notice, and within
12 seventy two (72) hours, if the employee voluntarily separated, but did not give at least seventy
13 two (72) hours' notice.

14 75. Plaintiff and other former employees of Defendant employed in the State of
15 California separated from employment with Defendant. Plaintiff and all others similarly situated
16 did not timely receive a final paycheck from Defendant in violation of Labor Code §§
17 200, et seq.

18 76. Plaintiff is informed and believes and thereon alleges that defendant also violated
19 the mandates of Labor Code §§ 200, et seq., as to other employees whose employment ended
20 during the period of time covered by this action.

21 77. Pursuant to Labor Code §§ 200, et. seq., each member of the class that no longer
22 works for Defendant, and who was not timely paid is entitled to one (1) day of pay in penalties
23 for each day that he or she was paid late, until payment was made, up on a maximum of thirty
24 (30) days.

25 78. Based on the willful nonpayment of wages as described above, the waiting time
26 penalty applies to Ponce and members of the waiting time penalty subclass, which is 30 days of
27 each class members' wages at their regular rate of pay.

28 /////

1 **EIGHTH CAUSE OF ACTION**

2 **FOR FAILURE TO PAY REPORTING TIME PAY AND LIQUIDATED DAMAGES**

3 (Lab. Code, § 1198 and 8 Cal. Code Regs., tit. 8, § 11050)

4 79. Plaintiff repeats and re-alleges all prior paragraphs supra, inclusive, of this
5 Complaint and they are incorporated herein by this reference.

6 80. Labor Code section 1198 dictates that no employer may employ an employee
7 under conditions of labor that are prohibited by the applicable IWC Wage Order.

8 81. California Code of Regulations, title 8, section 11050, subdivision (5)(A)
9 provides, “Each workday an employee is required to report for work and does report, but is
10 not put to work or is furnished less than half said employee’s usual or scheduled day’s
11 work, the employee shall be paid for half the usual or scheduled day’s work, but in no
12 event for less than two (2) hours nor more than four (4) hours, at the employee’s regular
13 rate of pay, which shall not be less than the minimum wage.”

14 82. The purpose of the reporting time regulation is “to guarantee at least partial
15 compensation for employees who report to work expecting to work a specified number of
16 hours, and who are deprived of that amount because of inadequate scheduling or lack of
17 proper notice by the employer.” (Aleman v. AirTouch Cellular (2012) 209 Cal.App.4th 556,
18 572.)

19 83. Labor Code section 1194.2 further establishes an employee’s right to recover
20 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon
21 in an action for payment of a wage less than the minimum wage fixed by the Industrial
22 Welfare Commission or by statute.

23 84. At all times relevant hereto, Plaintiff and the putative Class were paid by
24 Defendants on an hourly basis. Additionally, Plaintiff and the putative Class did
25 not reside at the place of employment.

26 85. During Plaintiff’s and the Putative Class’ employment, Defendants failed to pay
27 Plaintiff and the putative Class’ reporting time pay when Defendants scheduled Plaintiff and the
28 putative Class for a shift and then abruptly took away that shift on the preceding days.

1 86. Defendants would cause Plaintiff and the putative Class to cancel plans for
2 alternative employment, with no ability to regain employment during these time periods. In these
3 instances, Defendants would not pay Plaintiff's and the putative Class' wages for half of
4 their scheduled shifts.

5 87. Defendants acted intentionally, oppressively, and maliciously toward Plaintiff
6 and the putative Class, with a conscious disregard of them, or the consequences to them, with the
7 intent of depriving them of property and legal rights and otherwise causing them injury. By
8 virtue of Defendants' unlawful failure to pay reporting-time wages, Plaintiff and the putative
9 Class have suffered and will continue to suffer damages in an amount that is presently unknown
10 to them, but which exceeds the jurisdictional limits of the court, and which will be ascertained
11 according to proof at trial.

12 88. Plaintiff seeks to recover reporting-time wages according to proof, interest, and
13 all applicable statutory penalties against Defendants in a sum as provided by the Labor Code
14 and/or other statutes. Plaintiff also seeks to recover of liquidated damages as provided by Labor
15 Code section 1194.2, and reasonable attorneys' fees and costs.

16 **NINTH CAUSE OF ACTION**

17 **CIVIL PENALTIES UNDER LABOR CODE §§ 2698-2699**

18 89. Plaintiff re-alleges and incorporates each and every one of the allegations of all
19 preceding paragraphs contained in paragraphs, inclusive of this Complaint, as if fully set forth
20 herein.

21 90. Labor Code §§2698 - 2699, the Labor Code Private Attorney General Act of
22 2004, provides for a civil penalty to be assessed and collected by the Labor and Workforce
23 Development Agency (LWDA), or any of its departments, divisions, commissions, boards,
24 agencies or employees for a violation of the Labor Code, may be recovered through a civil action
25 by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other
26 current or former employees.

27 91. Whenever the LWDA, or any of its departments, divisions, commissions, boards
28 agencies or employees, has discretion to assess a civil penalty, a court in a civil action is

1 authorized to exercise the same discretion, subject to the same limitations and conditions to
2 assess a civil penalty.

3 92. Plaintiff, and all hourly non-exempt employees of Defendants are "aggrieved
4 employees" as defined by Labor Code §2699, in that they are all current or former employees of
5 Defendants, and one or more of the alleged violations was committed against them

6 93. Prior to filing this First Amended Complaint, Plaintiff gave written notice to the
7 LWDA on or about June 30, 2025, via mandatory online filing through the State of California
8 LWDA/ Department of Industrial Relations website with a copy to the employer via certified
9 mail, of the specific provisions of this code alleged to have been violated, including listing some
10 facts and some theories to support the alleged violations as required by Labor Code §2699.3; A
11 true and correct copy of the letter is attached hereto as **Exhibit 1**. Plaintiff alleges that he has
12 exhausted all administrative remedies and filed the herein complaint 65 days after mailing said
13 notice. At the date of filing this Complaint, the LWDA has not responded with any intention to
14 investigate. As such, Plaintiff has exhausted his administrative requirements pursuant to LC
15 §2699.3(a)(1) and (2) (A-C).
16

17 94. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
18 behalf of themselves and other current or former employees, to bring a civil action to recover
19 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

20 95. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the aggrieved
21 employees are entitled to recover civil penalties for each of the Defendant's violations of
22 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, and 1194, 1197, and 1198
23 during the applicable limitations period in the following amounts:

- 24 a. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for
25 each aggrieved employee for each initial violation and two hundred dollars
26 (\$200.00) for each aggrieved employee plus twenty-five percent (25%) of the
27 amount unlawfully withheld from each aggrieved employee for each subsequent,
28 willful or intentional violation (penalty amounts established by California Labor

Code § 210).

- b. For violations of California Labor Code § 226(a), two hundred fifty dollars (\$250.00) per employee for initial violation and one thousand dollars (\$1,000.00) per employee for each subsequent violation (penalty amounts established by California Labor Code § 226.3).
- c. For violations of California Labor Code § 512, fifty dollars (\$50.00) for each aggrieved employee for each initial violation for pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages and one hundred dollars (\$100.00) for each underpaid employee for each pay period for which the employee was underpaid (penalty amounts established by California Labor Code § 558).
- d. For violations of California Labor Code § 1197, one hundred dollars (\$100.00) for each aggrieved employee for each initial and intentional violation per pay period (regardless of whether the initial violations were intentionally committed) and two hundred fifty dollars (\$250.00) for each aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover unpaid wages, liquidated damages pursuant to California Labor Code § 1194.2, and applicable penalties imposed pursuant to California Labor Code § 203.
- e. For violations of California Labor Code §§ 201, 202, 203, and 226.7, one hundred dollars (\$100.00) for each aggrieved employee per pay period for each initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).
- f. Penalties under Code of Regulations, Title 8 §11070 or other applicable Code of Regulations in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$100 for each aggrieved employee per pay period for

each subsequent violation;

- g. Penalties under Labor Code §210, in addition to and entirely independent and apart from other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, plus 25% of the wage wrongly withheld;
- h. Penalties under Labor Code §256, in addition to and entirely independent and apart from other penalty provided in the Labor Code, including Labor Code §2699, et seq., for any aggrieved employee who was discharged or quit, and was not paid all earned wages at termination in accordance with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of pay, at the same rate, for each day that he or she was paid late, until payment was/is made, up to a maximum of thirty (30) days;
- i. Penalties under Labor Code §558, in addition to and entirely independent and apart from other penalty provided in the Labor Code, in the amount of \$50 for each underpaid aggrieved employee for each pay period the aggrieved employee was underpaid, and \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid pursuant to Labor Code §558 provided to the affected employees;
- j. Penalties under Labor Code §226.3, in addition to and entirely independent and apart from other penalty provided in the Labor Code, in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;
- k. Any and all additional penalties and sums as provided by the Cal. Labor Code and/or other statutes.
- l. Penalties under Labor Code section 210 for the weekly pay violations.

96. Pursuant to California Labor Code §2699(g), Plaintiff and the aggrieved employees are entitled to an award of civil penalties, reasonable attorney's fees and costs in connection with their claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

1. That the Court determine this action may be maintained as a class action;

As to the First Cause of Action:

2. For an order preliminarily and permanently enjoining Defendants from engaging in the practices challenged herein;

3. An order for full restitution of all monies, as necessary and according to proof, to restore any and all monies withheld by the Defendants by means of the unfair practice complained of herein. Plaintiff seeks, on behalf of the putative class, the appointment of a receiver, as necessary. The restitution includes all monies retained as wages, as defined in Labor Code §§ 200, et seq., 510, and 1194, and interest, and attorneys' fees as a result of the unfair business practices or retained in violation of Labor Code §1198 and IWC Wage Order 16;

4. For an order finding and declaring that Defendants' acts and practices as challenged herein are unlawful, and unfair and/or fraudulent;

5. For an accounting, under administration of Plaintiff and subject to Court Review, to determine the amount to be returned by Defendants and the amounts to be refunded to members who are or were not paid all their wages due to Defendants' unfair business practices;

6. For the creation of an administrative process wherein each injured current and former employee receives his or her back wages in the form of overtime pay or alternatively that each current or former eligible employee may submit a claim in order to receive his/her money;

7. For an order requiring Defendants to make full restitution and payment pursuant to B&PC Sections 17200, et seq. for unfair business practices that violate Labor Code §§ 200, et seq., 510, and 1194;

8. For reasonable attorneys' fees under Code of Civil Procedure §1021.5 all other appropriate declaratory and equitable relief;

- 1 9. For pre-judgment interest to the extent permitted by law;
- 2 10. For pre-judgment interest to the extent permitted by law and the California
- 3 Constitution;
- 4 11. For an order requiring Defendants to identify, by name, address and telephone
- 5 number of each person who worked as an hourly non-exempt employee for Defendants from four
- 6 (4) years before filing of the original complaint in this action through the time of judgment;

7 **As to the Second Cause of Action:**

- 8 12. For damages according to proof, as set forth in Labor Codes §§ 204, 218, 226,
- 9 510, 1194, and 1198 et seq., (and the applicable California Industrial Welfare Commission wage
- 10 orders) regarding wages due and owing;
- 11 13. For unpaid straight time wages pursuant to Labor Code §1194;
- 12 14. For pre-judgment interest as allowed by Labor Code § 1194 and California Civil
- 13 Code § 3287(b), and for reasonable attorneys' fees;

14 **As to the Third Cause of Action:**

- 15 15. One (1) hour of pay at each of the employees' regular rate of compensation for
- 16 each workday that a meal break was not provided, impeded, discouraged and/or dissuaded;

17 **As to the Fourth Cause of Action:**

- 18 16. One (1) hour of pay at each of the employees' regular rate of compensation for
- 19 each workday that a rest break was not provided, impeded, interrupted, discouraged and/or
- 20 dissuaded;

21 **As to the Fifth Cause of Action:**

- 22 17. For recovery as authorized by Labor Code §226(e);
- 23 18. For injunctive relief to ensure Defendants' compliance with Labor Code §226 and
- 24 the IWC Wage Orders §7(A) pursuant to Labor Code §226(g);
- 25 19. For an award of costs and reasonable attorneys' fees pursuant to Labor Code
- 26 §226(e) and/or §226(g);

27 **As to the Sixth Cause of Action:**

- 28 20. Reimbursement of all out-of-pocket expenses for work-related reason;

21. Attorney fees and costs;

As to the Seventh Cause of Action:

22. Waiting time penalties;

23. For reasonable attorneys' fees and costs;

As to the Eighth Cause of Action:

24. For reporting time compensation and liquidated damages;

25. For an award of interest, including prejudgment interest at the legal rate; and

26. For statutory penalties, interest, costs of suit, and attorneys' fees

As to the Ninth Cause of Action:

27. On behalf of all current and former employees, for all civil penalties authorized by Labor Code Private Attorney General Act of 2004 as specified in California Labor Code §558 plus Labor Code §1197.1 for former or current employees who are due wage payments;

28. For civil penalties per Labor Code §226.3 in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

29. For civil penalties per Labor Code §256 in the amount of one day of pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination, until payment was/is made, up to a maximum of thirty (30) days;

30. For civil penalties, pursuant to Labor Code § 558 as follows:

(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid;

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid;

31. For civil penalties under Labor Code §210, in addition to and entirely independent and apart from other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per

1 pay period for each subsequent violation, plus 25% of the wage wrongly withheld;

2 32. For civil penalties under Labor Code §2699(f), in addition to and entirely
3 independent and apart from other penalty provided in the Labor Code and for Labor Code
4 violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee
5 per pay period for each violation, and \$200 for each aggrieved employee per pay period for each
6 subsequent violation.

7 **As to All Causes of Action:**

8 33. For such other and further relief as this Court may deem just and proper.

9
10 Dated: September 4, 2025 SALUSKY LAW GROUP
11 JANELLE CARNEY – ATTORNEY AT LAW, APC

12
13
14 By:

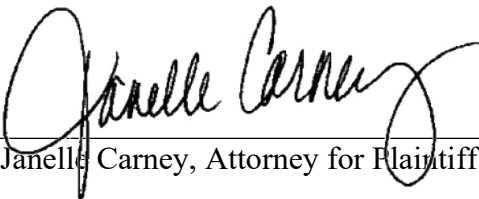

Janelle Carney, Attorney for Plaintiff

Exhibit 1



3738 Bayer Avenue, Suite 104
Long Beach, CA 90808
T. (562) 855-0004
F. (562) 855-0002
asalusky@saluskylaw.com
www.saluskylaw.com

June 30, 2025

PAGA Administrator
CA Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, CA 94612
Via: <http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

Edekal Concrete, Inc.
19600 Fairchild Rd., Suite 123
Irvine, CA 92612
Via: Certified U.S. Mail/ Return Receipt Requested

Re: Moran v. Edekal Concrete, Inc.

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION §§ 2699, *et seq.***

To: California Labor and Workforce Development Agency and Defendant Global Private Security, Inc.

From: Carlos Moran, on behalf of himself and all aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Please be advised that Salusky Law Group, APC and Janelle Carney – Attorney at Law, APC, represent Carlos Moran and all other aggrieved employees ("Plaintiff") defined as hourly employees, with respect to their employment with Edekal Concrete, Inc. ("Defendant").

Mr. Moran believes and alleges that Defendant has committed numerous violations of the California Labor Code, including, but not limited to, §§226, 226.7, 226.8, 510, 512, 1194, 1194.2, 1197, 1198, 2698, *et. seq.* The facts and theories to support the alleged violations are set forth herein.

THEORIES OF LABOR CODE VIOLATIONS AND REMEDIES

Overtime Violations

Labor Code section 510 and the applicable Wage Order provide that an employee shall be paid 1.5 times their regular rate of pay for any work over eight (8) hours in one workday or forty (40) hours in a workweek. Defendant did not pay overtime pursuant to these mandates, as Defendant required off-the-clock work on shifts daily. Thus, Mr. Moran and the aggrieved employees were either not paid proper premium overtime for hours worked over eight in a day or

forty in a week, or on the seventh consecutive workday, nor were they paid overtime at the correct rate.

Applicable Civil Penalties

As a result of the above overtime violations, Employer is subject to the civil penalties listed in Labor Code sections 210, 558, 1197.1, and 2699.

Off-the-Clock Work

Mr. Moran worked at least fifteen (15) minutes of off-the-clock time at the beginning of each shift. Mr. Moran and the Aggrieved Employees were required to be present and start to prepare tools for a project at least fifteen (15) minutes prior to punching in. Failure to arrive fifteen (15) minutes early and to be ready to start the shift at 7:00 a.m., resulted in discipline for being tardy. Mr. Moran would also be required to clean up and pack up tools/equipment off-the-clock after his shift ended, which took approximately twenty (20) minutes per shift. As such, Mr. Moran and the Aggrieved Employees were deprived of wages for these off-the-clock tasks, subjecting Defendant to minimum wage violations.

Applicable Civil Penalties

As a result of the above off-the-clock work, Employer is subject to the civil penalties listed in Labor Code sections 210, 558, 1197.1, and 2699, et seq.

Meal Break Violations

Labor Code section 512(a) and the applicable Wage Order provide that an employer shall not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, or more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes. Meal periods must be uninterrupted, and the employee must be relieved of all duty. Defendant did not provide such uninterrupted meals and required employees to remain on premises during their meals.

Labor Code section 226.7(c) further provides that an employee is entitled to one (1) hour of pay at their regular rate of pay for each day that a compliant meal period was not provided.

Further, Mr. Moran was entitled to a second meal period on shifts in excess of 10 hours that were not provided.

Premium Pay Paid at the Wrong Regular Rate

Premium pay for missed meal breaks must be paid at the employees' regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858.) The regular rate of pay includes all remuneration, including shift differentials, incentive pay, and other non-discretionary

bonuses. Here, it is unclear if Defendant ever paid for a missed meal break at the correct regular rate, or that Plaintiff earned any additional remuneration.

On Premises / On-Duty Meal Breaks

An employer provides compliant meal breaks to its employees “if it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30-minute break.” (*Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1040 (2012)).

Here, Mr. Moran and the Aggrieved Employees were required to remain on premises during any alleged meal breaks, so they should have received premium pay for the missed breaks at the regular rate of pay.

Applicable Civil Penalties

As a result of the above meal break violations, Employer is subject to the civil penalties listed in Labor Code sections 558 and 2699.

Rest Break Violations

Labor Code section 226.7 and the applicable Wage Order require employers to authorize and permit rest periods of 10 minutes net per four hours or major fraction thereof. Employees must be relieved of all duties during their rest breaks. Labor Code section 226.7(c) further provides that an employee is entitled to one hour of pay at their regular rate of pay for missed breaks.

Premium Pay Paid at the Wrong Regular Rate

Premium pay for missed rest breaks must be paid at the employees’ regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858.) The regular rate of pay includes all remuneration, including shift differentials, incentive pay, and other non-discretionary bonuses. Here, it is unclear if Defendant ever paid for a missed rest break at the correct regular rate.

On Premises Rest Breaks

An employer generally may not place restrictions on its employees during their rest breaks, such as requiring its employees to remain on the premises and subject to the employer’s control. In fact, the Division of Labor Standards and Enforcement provided the following:

Q. Can my employer require that I stay on the work premises during my rest period?

A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself. In *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th

257, 269, the California Supreme Court held that the rest period requirement "obligates employers to permit-and authorizes employees to take-off-duty rest periods. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time." (Citation omitted.) As a practical matter, however, if an employee is provided a ten-minute rest period, the employee can only travel five minutes from a work post before heading back to return in time.

Here, since the Aggrieved Employees were not allowed to leave the work premises during their rest breaks, they were subject to Employer's control during the rest breaks and would only be authorized or permitted to take one rest break per 8-hour shift. Thus, Mr. Moran and the Aggrieved Employees were not provided with compliant rest breaks.

Applicable Civil Penalties

As a result of the above rest break violations, Defendant is subject to the civil penalties listed in Labor Code section 558 and 2699.

Reporting Time Pay

The Wage Order states:

Section 5 (B) states: "Each workday that an employee is required to report to the work site and does report, but is not put to work or is furnished less than half of his/her usual or scheduled day's work, the employer shall pay him/her for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay, which shall not be less than the minimum wage."

Mr. Moran and the Aggrieved Employees would report to work and then would be sent home without explanation or pay. If allowed to work before being sent home, they would only be paid for the hour worked. This would typically happen during the winter months.

Failure to Reimburse (Labor Code §2802)

Plaintiff alleges that Defendant failed to reimburse Plaintiff and the aggrieved employees for out-of-pocket work-related expenses they incurred. Specifically, Defendant required Plaintiff and the aggrieved employees to drive their own personal vehicles to multiple worksites, without reimbursing for mileage and vehicle wear and tear. Plaintiff further alleges that Defendant failed to reimburse Plaintiff and the aggrieved employees for tools and gloves, which were required to perform work related duties. Defendant also required Plaintiff and the aggrieved employees to use their own cellular phones for work related purposes, without reimbursement. Finally, Plaintiff and the aggrieved employees purchased their own bottled water, as Defendant failed to provide drinkable water at the worksites.

Therefore, Plaintiff alleges Defendant violated Labor Code § 2802. Plaintiff will seek penalties pursuant to LC §§ 558, 2802, and 2699, et seq.

Wage Statement Violations

Labor Code section 226 requires an employer to provide wage statements to its employees which includes, gross and net wages earned / total hours worked / all deductions / the inclusive dates of the period for which the employee is paid / the name of the employee and only the last four digits of his or her social security number or an employee identification number / the name and address of the legal entity that is the employer / all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Employer failed to provide wage statements which accurately reflected this information.

Mr. Moran and the aggrieved employees' wage statements were inaccurate since they did not list all the hours worked, did not list the correct straight time hourly rates, did not list the correct overtime rates, or premium missed meal or rest breaks. Further, the wage statements are inaccurate by virtue of the Defendant's misclassification of security guards as independent contractors.

Mr. Moran is "injured" under Labor Code section 226(e) "If the accuracy of any of the items enumerated in § 226(a) [...] cannot be ascertained from the four corners of the wage statement." (*Ovieda v. Sodexo Operations, LLC* (C.D.Cal., Oct. 9, 2013, No. CV 12-1750-GHK) 2013 WL 12122413, p. *3.) An actual injury is shown where "there is a need for both additional documentation and additional mathematical calculations in order to determine whether Mr. Moran's were correctly paid and what they may be owed." (*Reinhardt v. Gemini Motor Transport* (E.D.Cal. 2012) 879 F.Supp.2d 1138, 1142.) In contrast, where the deficiency in the wage statement could be corrected by "simple math," there is no actual injury. (*Price v. Starbucks Corp.* (2011) 192 Cal.App.4th 1136, 1143.)

Applicable Civil Penalties

As a result of the wage statement violations detailed above, Defendant is subject to the civil penalties listed in Labor Code section 226.3 and 2699.

Waiting Time Penalties

Because Defendant did not pay Mr. Moran and the Aggrieved Employees all wages owed during their employment, they should have received waiting time penalties. Since they did not receive waiting time penalties, PAGA applies.

Applicable Civil Penalties

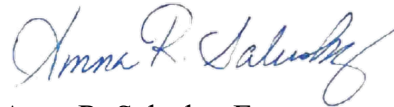
Defendant is subject to the civil penalties listed in Labor Code section 210 and 2699.

Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Mr. Moran becomes aware of additional compensation owed or losses incurred by Mr. Moran or by any other aggrieved employee, Mr. Moran expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Please advise the undersigned if the agency intends to investigate the alleged violations. If not, Mr. Moran intends to pursue his claims and those of the aggrieved employees under PAGA in a civil lawsuit. Please also consider this letter as providing notice on behalf of other aggrieved employees working for Defendant that were subject to the same Labor Code violations described above.

Sincerely,

A handwritten signature in blue ink, reading "Anna R. Salusky". The signature is fluid and cursive, with the first name "Anna" and last name "Salusky" clearly legible.

Anna R. Salusky, Esq.

SALUSKY LAW GROUP

ARS/jw