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an individual and on behalf of all others similarly situated and aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

EDGAR MARCELO CASTILLO
SANTIAGO, an individual, on behalf of all
others similarly situated, as an aggrieved
employee, and on behalf of all other aggrieved
employees under the Labor Code Private
Attorneys' General Act of 2004,

Plaintiffs,

v.

FAMAROCK, INC., a California Corporation;
HANS ROCKENWAGNER an individual;
PATRICK STACY an individual; and DOES 1
through 100, inclusive,

Defendants.

FILED
Superior Court of California
County of Los Angeles
01/22/2025
David W. Slayton, Executive Officer / Clerk of Court
By: R. Lozano Deputy

CASE NO.: 22STCV41096
**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. UNFAIR COMPETITION and
9. CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004, CAL. LABOR CODE SECTIONS 210, 226.3, 558, 1174.5, 1197.1, and 2699

DEMAND FOR JURY TRIAL
[Amount in Controversy Exceeds \$25,000.00]

COMES NOW Plaintiff, EDGAR MARCELO CASTILLO SANTIAGO (“Plaintiff”), on behalf of Plaintiff, all others similarly situated, as an aggrieved employee, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys’ General Act of 2004, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against FAMAROCK, LLC, a California Limited Liability Company formerly known as FAMAROCK, INC. (“FAMAROCK”); HANS ROCKENWAGNER (“ROCKENWAGNER”) an individual; and DOES 1 through 100, inclusive, and any of its respective subsidiaries or affiliated companies within the State of California (and, with DOES 1 through 100, as further defined below, “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants (“Class Members”).

2. This is also a representative action, pursuant to the Labor Code Private Attorneys’ General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Defendants, as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 227.3, Labor Code section 246, *et seq.*, Labor Code section 2802, restraints on competition, whistleblowing and freedom of speech on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

PARTIES

A. Plaintiff

1. Plaintiff, EDGAR MARCELO CASTILLO SANTIAGO is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, mixing ingredients, preparing dough, cleaning building interiors and moving heavy

1 bags of flour. Plaintiff is informed and believes that Plaintiff worked for Defendants from
2 approximately October of 2013 through at least July of 2022.

3 **B. Defendants**

4 2. Plaintiff is informed and believes and based thereon alleges that defendant
5 FAMAROCK is, and at all times relevant hereto was, a corporation organized and existing under
6 and by virtue of the laws of the State of California and doing business in the County of Los Angeles,
7 Stat of California, and converted to a limited liability company organized and existing under and by
8 virtue of the laws of the State of California and doing business in the County of Los Angeles, State
9 of California during the relevant time period.

10 3. Plaintiff is informed and believes and based thereon alleges that defendant
11 ROCKENWAGNER is, and at all times relevant hereto was, an individual residing in California, as
12 well as the Chief Executive Officer and Secretary of FAMAROCK.

13 4. The true names and capacities, whether individual, corporate, associate, or otherwise,
14 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
15 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
16 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
17 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
18 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
19 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
20 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
21 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
22 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
23 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
24 include FAMAROCK, ROCKENWAGNER, and any of their parent, subsidiary, or affiliated
25 companies within the State of California, as well as DOES 1 through 100 identified herein.

26 **JOINT LIABILITY ALLEGATIONS**

27 5. Plaintiff is informed and believes and based thereon alleges that all the times
28 mentioned herein, each of the Defendants was the agent, principal, employee, employer,

1 representative, joint venture or co-conspirator of each of the other defendants, either actually or
2 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
3 employment, joint venture, and conspiracy.

4 6. All of the acts and conduct described herein of each and every corporate defendant
5 was duly authorized, ordered, and directed by the respective and collective defendant corporate
6 employers, and the officers and management-level employees of said corporate employers. In
7 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
8 their said employees, agents, and representatives, and each of them; and upon completion of the
9 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
10 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
11 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
12 aforementioned corporate employees, agents and representatives.

13 7. Plaintiff is informed and believes, and based thereon alleges, that despite the
14 formation of the purported corporate existence of FAMAROCK, ROCKENWAGNER, and DOES
15 1 through 50, inclusive (the “Alter Ego Defendants”), they, and each of them, are one and the same
16 with DOES 51 through 100 (“Individual Defendants”), and each of them, due to, but not limited to,
17 the following reasons:

18 a. The Alter Ego Defendants are completely dominated and controlled by the
19 Individual Defendants who personally committed the wrongful and illegal acts and violated the laws
20 as set forth in this Complaint, and who have hidden and currently hide behind the Alter Ego
21 Defendants to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or
22 inequitable purpose;

23 b. The Individual Defendants derive actual and significant monetary benefits by and
24 through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego Defendants as the
25 funding source for the Individual Defendants’ own personal expenditures;

26 c. Plaintiff is informed and believes, and thereon alleges, that the Individual
27 Defendants and the Alter Ego Defendants, while really one and the same, were segregated to appear
28 as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or

1 accomplishing some other wrongful or inequitable purpose;

2 d. Plaintiff is informed and believes, and thereon alleges, that the business affairs of
3 the Individual Defendants and the Alter Ego Defendants are, and at all relevant times mentioned
4 herein were, so mixed and intermingled that the same cannot reasonably be segregated, and the same
5 are inextricable confusion. The Alter Ego Defendants are, and at all relevant times mentioned herein
6 were, used by the Individual Defendants as mere shells and conduits for the conduct of certain of
7 their, and each of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
8 herein were, the alter egos of the Individual Defendants;

9 e. The recognition of the separate existence of the Individual Defendants from the
10 Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
11 insulate themselves from liability to Plaintiffs for violations to the Civil Code, Government Code,
12 and other statutory violations. The corporate existence of these defendants should thus be
13 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
14 and injustice to Plaintiff herein;

15 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
16 Defendants (and vice versa), and the fiction of their separate corporate existence must be
17 disregarded.

18 8. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
19 thereon alleges that Defendants, and each of them, are joint employers.

20 **JURISDICTION**

21 9. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
22 of Civil Procedure section 410.10.

23 10. Venue is proper in Los Angeles County, California pursuant to Code of Civil
24 Procedure sections 392, et seq. because, among other things, Los Angeles County is where the
25 causes of action complained of herein arose; the county in which the employment relationship
26 began; the county in which performance of the employment contract, or part of it, between Plaintiff
27 and Defendants was due to be performed; and the county in which the employment contract, or part
28 of it, between Plaintiff and Defendants was actually performed. Moreover, the unlawful acts alleged

1 herein have a direct effect on Plaintiff and Class Members in Los Angeles County, and because
2 Defendants employ numerous Class Members in Los Angeles County.

3 11. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
4 Defendants during the applicable statutory period and suffered one or more of the Labor Code
5 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
6 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
7 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
8 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
9 employees of Defendants during the Civil Penalty Period.

10 12. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
11 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
12 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
13 PAGA allegations described herein is not required.

14 13. During the period beginning one (1) year preceding the provision of notice to the
15 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
16 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
17 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
18 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

19 14. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
20 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
21 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
22 specified in Labor Code section 2699.3.

23 15. On or around December 30, 2022, Plaintiff provided written notice pursuant to Labor
24 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
25 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
26 as well as by certified mail, with return receipt requested to Defendants, and each of them.

27 16. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
28 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)

1 calendar days of the December 30, 2022 postmarked date of the herein-described notice sent by
2 Plaintiff to the LWDA and Defendants.

3 **FACTUAL BACKGROUND**

4 17. For at least four (4) years prior to the filing of this action and continuing to the
5 present, Defendants have, at times, failed to pay overtime wages to Plaintiff, Class Members, and
6 Aggrieved Employees, or some of them, in violation of California state wage and hour laws as a
7 result of, without limitation, Plaintiff, Class Members, and Aggrieved Employees working over
8 eight (8) hours per day, forty (40) hours per week, and seven consecutive work days in a work week
9 without being properly compensated for hours worked in excess of (8) hours per day in a work day,
10 forty (40) hours per week in a work week, and/or hours worked on the seventh consecutive work
11 day in a work week by, among other things, failing to accurately track and/or pay for all minutes
12 actually worked; engaging, suffering, or permitting employees to work off the clock, including,
13 without limitation, for time spent donning and doffing mandatory uniforms and/or equipment;
14 requiring employees to begin work duties before clocking in and continue working after clocking
15 out; requiring employees to complete pre-shift and post-shift tasks, including, without limitation,
16 loading cleaning carts; requiring employees to remain on call during off-duty periods; requiring
17 employees to clock out for lunch and continue working; editing and/or manipulation of time entries
18 to show lesser hours than actually worked; and paying straight pay for overtime hours worked or
19 otherwise failing to pay employees at the proper overtime rate of pay, to the detriment Plaintiff,
20 Class Members, and Aggrieved Employees.

21 18. For at least four (4) years prior to the filing of this Action and continuing to the
22 present, Defendants have, at times, failed to pay minimum wages to Plaintiff, Class Members, and
23 Aggrieved Employees, or some of them, in violation of California state wage and hour laws as a
24 result of, among other things, at times, failing to accurately track and/or pay for all minutes actually
25 worked; engaging, suffering, or permitting employees to work off the clock, including, without
26 limitation, for time spent donning and doffing mandatory uniforms and/or equipment; requiring
27 employees to begin work duties before clocking in and continue working after clocking out;
28 requiring employees to complete pre-shift and post-shift tasks, including, without limitation, loading

1 cleaning carts; requiring employees to remain on call during off-duty periods; requiring employees
2 to clock out for lunch and continue working; and editing and/or manipulation of time entries to show
3 lesser hours than actually worked, to the detriment of Plaintiff, Class Members, and Aggrieved
4 Employees.

5 19. For at least four (4) years prior to the filing of this Action and continuing to the
6 present, Defendants have, at times, failed to provide Plaintiff, Class Members, and Aggrieved
7 Employees, or some of them, full, timely thirty (30) minute uninterrupted meal period for days on
8 which they worked more than five (5) hours in a work day and a second thirty (30) minute
9 uninterrupted meal period for days on which they worked in excess of ten (10) hours in a work day,
10 and failed, at times, to provide compensation for such unprovided meal periods as required by
11 California wage and hour laws.

12 20. For at least four (4) years prior to the filing of this action and continuing to the
13 present, Defendants have, at times, failed to authorize and permit Plaintiff, Class Members, and
14 Aggrieved Employees, or some of them, to take rest periods of at least ten (10) minutes per four (4)
15 hours worked or major fraction thereof and failed to provide compensation for such unprovided rest
16 periods as required by California wage and hour laws.

17 21. For at least three (3) years prior to the filing of this action and continuing to the
18 present, Defendants have, at times, failed to pay Plaintiff, Class Members, and Aggrieved
19 Employees, or some of them, the full amount of their wages owed to them upon termination and/or
20 resignation as required by Labor Code sections 201 and 202.

21 22. For at least one (1) year prior to the filing of this Action and continuing to the present,
22 Defendants have, at times, failed to furnish Plaintiff, Class Members, and Aggrieved Employees, or
23 some of them, with itemized wage statements that accurately reflect gross wages earned; total hours
24 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
25 corresponding number of hours worked at each hourly rate; the name and address of the legal entity
26 that is the employer; and other such information as required by Labor Code section 226, subdivision
27 (a). As a result thereof, Defendants have further failed to furnish employees with an accurate
28 calculation of gross and gross wages earned, as well as gross and net wages paid.

1 23. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this action
2 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7, 510,
3 512, 558.1, 1194, 1194.2, 1197, 2802, *et al.*, and California Code of Regulations, Title 8, section
4 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and
5 rest periods, waiting time penalties, wage statement penalties, failure to indemnify work-related
6 expenses, other such provisions of California law, and reasonable attorneys' fees and costs.

7 24. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
8 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
9 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
10 appropriate and effective means to prevent further violations, as well as all monies owed but
11 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
12 restitution of amounts owed.

13 25. At all relevant times mentioned herein, Defendants had and have a policy or practice
14 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
15 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
16 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
17 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
18 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiffs and other
19 Aggrieved Employees.

20 26. At all relevant times mentioned herein, Defendants had and have a policy or practice
21 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages
22 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
23 wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor
24 Code sections 201, 202, and 203.

25 27. At all relevant times herein, Defendants had and have a policy or practice of failing
26 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
27 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
28 and applicable Wage Orders.

1 28. At all relevant times mentioned herein, Defendants have had a policy or practice of
2 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
3 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal
4 vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other deposits,
5 separately laundering mandatory uniforms, for the purchase of tools and safety equipment (including
6 work boots to handle oil), for the purchase and maintenance of cellular phones and cellular phone
7 plans, in direct consequence of the discharge of their duties, or of their obedience to the directions
8 of Defendants, as required by Labor Code 2802.

9 29. At all relevant times mentioned herein, Defendants have had a policy or practice of
10 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
11 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
12 Employees with the rates of pay and overtime rates of pay applicable to their employment;
13 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
14 name, address, and telephone number of the workers' compensation insurance carrier; information
15 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
16 under Labor Code section 2810.5.

17 30. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
18 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
19 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
20 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
21 all other Aggrieved Employees.

22 31. At all relevant times mentioned herein, Defendants have had a policy or practice of
23 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
24 Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of
25 any calendar month shall be paid for between the 16th and 26th day of the month during which the
26 labor was performed, and labor performed between the 16th and the last day, inclusive of any
27 calendar month, shall be paid for between the 1st and 10th day of the following month.

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1 32. At all relevant times mentioned herein, Defendants had and have a policy or practice
2 of preventing Plaintiff and/or Aggrieved Employees from using or disclosing the skills, knowledge
3 and experience they obtained at Defendants for purposes of competing with Defendants, including,
4 without limitation, preventing Employees from disclosing their wages in negotiating a new job with
5 a prospective employer, and from disclosing who else works at Defendants and under what
6 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
7 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
8 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor
9 Code sections 232, 232.5, and 1197.5, subdivision (k).

10 33. Defendants had and have a policy or practice of preventing Plaintiff and/or other
11 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
12 to their managers or outside to private attorneys or government officials, among others, in violation
13 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
14 1102.5. In addition, Plaintiff is informed and believes that Defendants' herein-described policies
15 and/or practices prevent Plaintiff and/or other Aggrieved Employees from disclosing information
16 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
17 of Labor Code section 232 and 232.5.

18 34. Defendants had and have a policy or practice of preventing Plaintiff and/or other
19 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
20 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
21 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,
22 subdivision (k). Plaintiff is informed and believes that this lawful conduct includes the exercise of
23 Plaintiff's and/or other Aggrieved Employee's constitutional rights of freedom of speech and
24 economic liberty.

25 35. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
26 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
27 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
28 Employees pursuant to PAGA.

1 **CLASS ACTION ALLEGATIONS**

2 36. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
3 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current
4 and former non-exempt employees of Defendants within the State of California at any time
5 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice
6 of the class action is provided to the class (collectively referred to as "Class Members").

7 37. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
8 to amend or modify the class description with greater specificity, further divide the defined class
9 into subclasses, and to further specify or limit the issues for which certification is sought.

10 38. This action has been brought and may properly be maintained as a class action under
11 the provisions of Code of Civil Procedure section 382 because there is a well-defined community
12 of interest in the litigation and the proposed Class is easily ascertainable.

13 **A. Numerosity**

14 39. The potential Class Members as defined are so numerous that joinder of all the
15 members of the Class is impracticable. While the precise number of Class Members has not been
16 determined yet, Plaintiff is informed and believes that there are over one-hundred (100) Class
17 Members employed by Defendants within the State of California.

18 40. Accounting for employee turnover during the relevant periods necessarily increases
19 this number. Plaintiff alleges Defendants' employment records would provide information as to the
20 number and location of all Class Members. Joinder of all members of the proposed Class is not
21 practicable.

22 **B. Commonality**

23 41. There are questions of law and fact common to Class Members. These common
24 questions include, but are not limited to:

25 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
26 worked at a proper overtime rate of pay?

27 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
28 for all other time worked at the employee's regular rate of pay and a rate of pay that

1 is greater than the applicable minimum wage?

2 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
3 Class Members to take compliant meal periods?

4 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
5 with additional wages for missed or interrupted meal periods?

6 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
7 Class Members to take compliant rest periods?

8 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
9 with additional wages for missed rest periods?

10 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
11 Members upon termination or resignation all wages earned?

12 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
13 section 203?

14 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
15 Class Members with accurate wage statements?

16 J. Did Defendants violate the Unfair Competition Law, Business and Professions Code
17 section 17200, *et seq.*, by their unlawful practices as alleged herein?

18 K. Are Class Members entitled to restitution of wages under Business and Professions
19 Code section 17203?

20 L. Are Class Members entitled to costs and attorneys' fees?

21 M. Are Class Members entitled to interest?

22 **C. Typicality**

23 42. The claims of Plaintiff herein alleged are typical of those claims which could be
24 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
25 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
26 damages arising out of and caused by Defendants' common course of conduct in violation of laws
27 and regulations that have the force and effect of law and statutes as alleged herein.

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1 **D. Adequacy of Representation**

2 43. Plaintiff will fairly and adequately represent and protect the interest of Class
3 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
4 hour class actions.

5 **E. Superiority of Class Action**

6 44. A class action is superior to other available means for the fair and efficient
7 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
8 questions of law and fact common to Class Members predominate over any questions affecting only
9 individual Class Members. Class Members, as further described therein, have been damaged and
10 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
11 violation of the Labor Code at times, as set out herein.

12 45. Class action treatment will allow Class Members to litigate their claims in a manner
13 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
14 any difficulties that are likely to be encountered in the management of this action that would
15 preclude its maintenance as a class action.

16 **FIRST CAUSE OF ACTION**

17 **(Failure to Pay Overtime Wages – Against All Defendants)**

18 46. Plaintiff realleges and incorporates by reference all of the allegations contained in
19 the preceding paragraphs as though fully set forth hereat.

20 47. At all relevant times, Plaintiff and Class Members were employees or former
21 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
22 Wage Orders.

23 48. At all times relevant to this Complaint, Labor Code section 510 was in effect and
24 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
25 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
26 at the rate of no less than one and one-half times the regular rate of pay for an employee.”

27 49. At all times relevant to this Complaint, Labor Code section 510 further provided that
28 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice

1 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh
2 day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay.”

3 50. Four (4) years prior to the filing of the Complaint in this Action through the present,
4 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
5 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
6 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
7 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
8 actually worked at the proper overtime rate of pay to the detriment of Plaintiff and Class Members.

9 51. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
10 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
11 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
12 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
13 applicable IWC Wage Orders, and California law.

14 As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been
15 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus
16 interest and penalties thereon, attorneys’ fees and costs, pursuant to Labor Code section 1194 and
17 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

18 **SECOND CAUSE OF ACTION**

19 **(Failure to Pay Minimum Wages – Against All Defendants)**

20 52. Plaintiff realleges and incorporates by reference all of the allegations contained in
21 the preceding paragraphs as though fully set forth hereat.

22 53. At all relevant times, Plaintiff and Class Members were employees or former
23 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

24 54. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and
25 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
26 Defendants’ control.

27 55. For four (4) years prior to the filing of the Complaint in this Action through the
28 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at

1 their regular rate of pay that is above the minimum wage to the detriment of Plaintiff and Class
2 Member

3 56. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
4 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
5 for all hours worked or otherwise due.

6 57. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
7 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to
8 recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
9 damages, reasonable attorneys' fees and costs of suit.

10 **THIRD CAUSE OF ACTION**

11 **(Failure to Provide Meal Periods – Against All Defendants)**

12 58. Plaintiff realleges and incorporates by reference all of the allegations contained in
13 the preceding paragraphs as though fully set forth hereat.

14 59. At all relevant times, Plaintiff and Class Members were employees or former
15 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

16 60. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
17 employ an employee for a work period of more than five (5) hours without a timely meal break of
18 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
19 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
20 per day without providing the employee with a second timely meal period of not less than thirty (30)
21 minutes in which the employee is relieved of all of his or her duties.

22 61. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
23 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
24 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
25 of compensation for each workday that the meal period is not provided.

26 62. For four (4) years prior to the filing of the Complaint in this Action through the
27 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-
28 free uninterrupted meal periods every five hours of work without waiving the right to take them, as

1 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the
2 Class Member's regular rate of compensation on the occasions that Class Members were not
3 provided compliant meal periods.

4 63. By their failure to provide Plaintiff and Class Members compliant meal periods as
5 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
6 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
7 violated the provisions of Labor Code section 512 and applicable Wage Orders.

8 64. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
9 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
10 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

11 65. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
12 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
13 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
14 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

15 **FOURTH CAUSE OF ACTION**

16 **(Failure to Provide Rest Periods – Against All Defendants)**

17 66. Plaintiff realleges and incorporates by reference all of the allegations contained in
18 the preceding paragraphs as though fully set forth hereat.

19 67. At all relevant times, Plaintiff and Class Members were employees or former
20 employees of Defendants covered by applicable Wage Orders.

21 68. California law and applicable Wage Orders require that employers "authorize and
22 permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour
23 work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-
24 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
25 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
26 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
27 thirty (30) minutes of paid rest period.

28 ///

69. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

70. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not authorized or permitted to take compliant rest periods.

71. By their failure, at times, to authorize and permit Plaintiff and Class Members to take rest periods contemplated by California law, and one (1) additional hour of pay at the employee's regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

72. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for rest periods that they were not authorized or permitted to take.

73. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FIFTH CAUSE OF ACTION

(Failure to Pay All Wages Due Upon Termination – Against All Defendants)

74. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

75. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable Wage Orders.

1 76. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
2 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
3 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
4 discharge immediately upon termination. Class Members who resigned were entitled to payment of
5 all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
6 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
7 unpaid at the time of resignation.

8 77. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)
9 years before the filing of the Complaint in this Action through the present, Defendants, due to the
10 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class
11 Members all wages earned prior to resignation or termination in accordance with Labor Code
12 sections 201 or 202.

13 78. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
14 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
15 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
16 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
17 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
18 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
19 or resignation.

20 79. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
21 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
22 resignation, until paid, up to a maximum of thirty (30) days.

23 80. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
24 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
25 prior to termination or resignation.

26 81. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
27 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
28 waiting time penalties, interest, and their costs of suit, as well.

1 **SIXTH CAUSE OF ACTION**

2 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

3 82. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 83. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

7 84. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
8 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
9 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
10 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
11 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
12 employer, among other things.

13 85. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
14 before the filing of the Complaint in this Action through the present, Defendants failed to comply
15 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
16 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
17 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
18 all applicable hourly rates in effect during the pay period and the corresponding number of hours
19 worked at each hourly rate; and the name and address of the legal entity that is the employer, among
20 other things.

21 86. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
22 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
23 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
24 provided wage statements that Defendants knew were not accurate.

25 87. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
26 suffered injury. The absence of accurate information on Class Members' wage statements at times
27 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
28 mathematical computations to determine the amount of wages owed; causes difficulty and expense

1 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
2 about wages and amounts deducted from wages to state and federal governmental agencies, among
3 other things.

4 88. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
5 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
6 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
7 pay period, not to exceed an aggregate \$4,000.00 per employee.

8 89. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
9 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
10 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
11 attorneys' fees, and costs of suit.

12 **SEVENTH CAUSE OF ACTION**

13 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

14 90. Plaintiff realleges and incorporates by reference all of the allegations contained in
15 the preceding paragraphs as though fully set forth hereat.

16 91. At all relevant times, Plaintiff and Class Members were employees or former
17 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

18 92. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
19 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
20 during which the labor was performed, and labor performed between the 16th and the last day,
21 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
22 month.”

23 93. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
24 independent and apart from, any other penalty provided in this article, every person who fails to pay
25 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
26 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
27 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
28 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25

percent of the amount unlawfully withheld.”

94. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year before the filing of the Complaint in this Action through the present, Defendants employed policies and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with Labor Code section 204.

95. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to recover penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200) for each subsequent violation in connection with each payment that was made in violation of Labor Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

96. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties, interest, and their costs of suit, as well.

EIGHTH CAUSE OF ACTION

(Unfair Competition – Against All Defendants)

97. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

98. Plaintiff is informed and believes, and based thereon alleges that the unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. Due to their unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to compensate employees in accordance with the Labor Code.

99. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class Members have suffered injury in fact and lost money or property.

100. Pursuant to Business and Professions Code section 17203, Plaintiff and Class Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further

1 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
2 including interest thereon, in which they had a property interest and which Defendants nevertheless
3 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
4 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
5 by their failure to comply with the Labor Code.

6 101. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
7 Procedure section 1032 and interest under Civil Code section 3287.

8 **NINTH CAUSE OF ACTION**

9 **(Civil Penalties under Labor Code Private Attorneys' General Act of 2004 –**

10 **Against All Defendants)**

11 102. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
12 and incorporates each by reference as though fully set forth hereat.

13 A. **Civil Penalties Under Labor Code § 210**

14 103. At all relevant times herein, Labor Code section 204, requires and required that:
15 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid
16 for between the 16th and 26th day of the month during which the labor was performed, and labor
17 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
18 between the 1st and 10th day of the following month.

19 104. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
20 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
21 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
22 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
23 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
24 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
25 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

26 105. At all relevant times herein, Defendants have had a consistent policy or practice of
27 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
28 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other

1 Aggrieved Employees are entitled to recover civil penalties for Defendants' violations of Labor
2 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
3 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
4 for each subsequent violation in connection with each payment that was made in violation of Labor
5 Code section 204.

6 B. Civil Penalties Under Labor Code § 226.3

7 106. Defendants had and have a policy or practice of failing to comply with Labor Code
8 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
9 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
10 wages earned; the name and address of each employer with whom they have been placed to work;
11 all applicable hourly rates in effect during the pay period and the corresponding number of hours
12 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
13 entity securing the employer's services if the employer is a farm labor contractor; and other such
14 information as required by Labor Code section 226, subdivision (a).

15 107. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a) of
16 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
17 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
18 violation in a subsequent citation, for which the employer fails to provide the employee a wage
19 deduction statement or fails to keep the records required in subdivision (a) of Section 226."

20 108. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
21 this section are in addition to any other penalty provided by law."

22 109. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
23 have a policy or practice of failing to furnish non-exempt employees, including, without limitation,
24 Plaintiff, with itemized wage statements that accurately reflect gross wages earned; total hours
25 worked; net wages earned; all deductions; all applicable hourly rates in effect and the corresponding
26 number of hours worked at each hourly rate in effect during the pay period; the legal name of the
27 employer and/or the name and address of the legal entity securing the employer's services if the
28 employer is a farm labor contractor; and other such information as required by Labor Code section

1 226, subdivision (a).

2 110. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
3 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
4 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
5 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
6 period for each subsequent violation.

7 C. Violation of Labor Code § 558

8 111. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
9 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
10 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
11 penalty as follows:

12 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
13 pay period for which the employee was underpaid in addition to an amount sufficient
14 to recover underpaid wages;

15 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
16 employee for each pay period for which the employee was underpaid in addition to
17 an amount sufficient to recover underpaid wages;

18 (3) Wages recovered pursuant to this section shall be paid to the affected employee."

19 112. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
20 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
21 causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages and minimum
22 wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during
23 their employment and after their employment separation; receive accurate, itemized wage
24 statements; be provided with the opportunity to inspect employment records; be provided with
25 notice as required under Labor Code section 2810.5; be provided with the proper accrual and use
26 of paid sick leave; and/or be paid out all paid time off and/or vacation wages owed at the proper
27 rate of pay.

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113. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

D. Violation of Labor Code § 1174.5

114. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required every person employing labor in California to “[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

115. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

116. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

117. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any

1 member of the commission or employees of the division to inspect records pursuant to subdivision
2 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

3 118. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
4 willfully failed keep adequate or accurate time records including wage statements and similar
5 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
6 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
7 under Labor Code section 1174.

8 119. As a direct and proximate result of the herein-described Labor Code violations,
9 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
10 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of
11 five hundred dollars (\$500) per violation per Aggrieved Employee.

12 E. Violation of Labor Code § 1197.1

13 120. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
14 person acting either individually or as an officer, agent, or employee of another person, who pays
15 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
16 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
17 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
18 Section 203 as follows:

19 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
20 for each underpaid employee for each pay period for which the employee is
21 underpaid. This amount shall be in addition to an amount sufficient to recover
22 underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable
23 penalties imposed pursuant to Section 203.

24 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
25 (\$250) for each underpaid employee for each pay period for which the employee is
26 underpaid regardless of whether the initial violation is intentionally committed. This
27 amount shall be in addition to an amount sufficient to recover underpaid wages,
28 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed

1 pursuant to Section 203.

2 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
3 Section 203, recovered pursuant to this section shall be paid to the affected
4 employee.”

5 121. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
6 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants,
7 without limitation, routinely failing to pay Plaintiffs or other Aggrieved Employees’ to pay
8 minimum wages for all hours worked, entitling Employee and other aggrieved employees to actual
9 and liquidated damages.

10 122. As a direct and proximate result of the herein-described Labor Code violations,
11 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
12 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
13 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
14 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
15 subsequent violation.

16 F. Civil Penalties Under Labor Code § 2699

17 123. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
18 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
19 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
20 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
21 action brought by an aggrieved employee on behalf of himself or herself and other current or former
22 employees pursuant to the procedures specified in Labor Code section 2699.3.

23 124. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the
24 Labor Code except those for which a civil penalty is specifically provided, the established civil
25 penalty for a violation of those provisions is as follows: if, at the time of the alleged violation, the
26 person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each
27 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each
28 aggrieved employee per pay period for each subsequent violation.

1 125. Plaintiff is informed and believes and based thereon alleges that Defendants, and each
2 of them, violated the Labor Code sections described herein, including, without limitation, for the
3 failure to: pay overtime wages and minimum wages; provide meal and rest periods or compensation
4 in lieu thereof; provide accurate, itemized wage statements; pay timely wages during employment
5 and after employment separation; provide employees the opportunity to inspect employment
6 records; reimburse Aggrieved Employees for costs incurred in furtherance of their work duties;
7 provide notice as required under Labor Code section 2810.5; provide the proper accrual and use of
8 paid sick leave; paying employees all owed paid time off and vacation time owed by separation at
9 the proper rate of pay; and placing restraints on competition, whistleblowing and freedom of speech,
10 entitling Plaintiff and other Aggrieved Employees to civil penalties for each of these Labor Code
11 violations in the amounts set forth in Labor Code section 2699, subdivision (f).

12 126. Moreover, Plaintiff and other Aggrieved Employees within the State of California
13 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
14 connection with their herein-described claims for civil penalties.

15 **DEMAND FOR JURY TRIAL**

16 127. Plaintiff demands a trial by jury on all causes of action contained herein.

17 **PRAYER**

18 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
19 against Defendants as follows:

- 20 A. An order certifying this case as a Class Action;
- 21 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
22 counsel as class counsel;
- 23 C. Damages for all wages earned and owed, including minimum overtime wages
24 under Labor Code sections 510, 1194, 1197, 1199 and 227.3;
- 25 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- 26 E. Damages for unpaid premium wages from missed meal and rest periods under,
27 among other Labor Code sections, 512, 558.1 and 226.7;
- 28 F. Penalties for inaccurate wage statements under Labor Code sections 226,

subdivision (e) and 558.1;

G. Waiting time penalties under Labor Code sections 203 and 558.1;

H. Damages under Labor Code sections 2802 and 558.1;

I. Preliminary and permanent injunctions prohibiting Defendants from further violating the California Labor Code and requiring the establishment of appropriate and effective means to prevent future violations;

J. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;

K. Prejudgment and post-judgment interest at the maximum rate allowed by law;

L. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;

M. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;

N. For attorneys' fees in prosecuting this action;

O. For costs of suit incurred herein; and

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

Dated: January 15, 2025

BIBIYAN LAW GROUP, P.C.

BY: Brandon M. Chang
BRANDON M. CHANG

Attorneys for Plaintiff, EDGAR MARCELO
CASTILLO SANTIAGO on behalf of herself and all
others similarly situated and aggrieved

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1460 Westwood Boulevard, Los Angeles, CA 90024.

On January 22, 2025, I served the following document(s) described as **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** to be served by electronic transmission to the below referenced electronic e-mail addresses as follows:

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Attorneys for Defendants, FAMAROCK, LLC (f/k/a FAMAROCK, INC.)

And HANS ROCKENWAGNER

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

Executed on January 22, 2025, at Los Angeles, California.

/s/ Araceli Marquez

Araceli Marquez