

1 **MESSRELIAN LAW INC.**
2 Harout Messrelian (SB# 272020)
3 hm@messrelianlaw.com
4 Maralle Messrelian, Of Counsel (SB#316974)
5 maralle@messrelianlaw.com
6 500 N. Central Ave., Suite 840
7 Glendale, California 91203
8 Telephone: (818) 484-6531
9 Facsimile: (818) 956-1983

10 Attorneys for Plaintiff Arturo Gonzalez Jasso

E-FILED
5/17/2023 4:10 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
23CV416440
Reviewed By: P. Newton

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SANTA CLARA**

13 23CV416440

14 ARTURO GONZALEZ JASSO,

15 Plaintiff,

16 vs.

17 GLOBAL SPECTRUM, LP; and
18 DOES 1 to 25, inclusive,

19 Defendants.

) CASE NO.:

) **COMPLAINT FOR DAMAGES FOR:**

) **1) FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**

) **2) FAILURE TO PAY MINIMUM**
) **WAGES;**

) **3) FAILURE TO PAY OVERTIME;**

) **4) FAILURE TO PROVIDE**
) **ACCURATE ITEMIZED WAGE**
) **STATEMENTS;**

) **5) FAILURE TO PAY WAGES WHEN**
) **EMPLOYMENT ENDS;**

) **6) FAILURE TO PAY WAGES OWED**
) **EVERY PAY PERIOD;**

) **7) FAILURE TO GIVE REST BREAKS;**

) **8) FAILURE TO GIVE MEAL BREAKS**

) **9) FAILURE TO REIMBURSE FOR**
) **BUSINESS EXPENSES;**

) **10) AGE DISCRIMINATION IN**
) **VIOLATION OF THE FAIR**

) **EMPLOYMENT AND HOUSING**
) **ACT ("FEHA");**

) **11) FAILURE TO PREVENT**

) **DISCRIMINATION IN VIOLATION**
) **OF FEHA;**

) **12) WRONGFUL TERMINATION IN**
) **VIOLATION OF PUBLIC POLICY;**

1) **13) VIOLATION OF CALIFORNIA**
2) **BUSINESS AND PROFESSIONS**
3) **CODE SECTION 17200.**

4) **DEMAND FOR JURY TRIAL**
5)

6 COMES NOW Plaintiff, Arturo Gonzalez Jasso (hereinafter "Plaintiff"), and alleges as
7 follows:

8 **PARTIES, JURISDICTION, VENUE**

9 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the
10 County of Santa Clara in this judicial district because Defendants GLOBAL SPECTRUM LP,
11 and DOES 1 to 25, inclusive, do business in the County of Santa Clara and because Defendants'
12 obligations and liabilities arise therein, and because the work that was performed by Plaintiff in
13 the County of Santa Clara is the subject of this action. Moreover, Plaintiff's damages sought
herein exceed \$25,000.

14 2. Plaintiff is a 56-year-old male resident of the city of San Jose, County of Santa Clara,
15 State of California.

16 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant GLOBAL
17 SPECTRUM LP (hereafter "GLOBAL SPECTRUM") is and was a Philadelphia limited
18 partnership, doing business in Santa Clara County, California, and which employed Plaintiff.

19 4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
20 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
21 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
22 defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible
23 for the conduct alleged herein. Upon discovering the true names and capacities of these
24 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and
25 capacities of these fictitiously named defendants.

26 5. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
27 that information and belief, alleges that at all times herein mentioned, each of the remaining
28 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and

1 under the authority of their agency, employment, or representative capacity, with the consent
2 of his/her codefendants.

3 **GENERAL ALLEGATIONS**

4 6. Plaintiff started working for GLOBAL SPECTRUM over 20 years ago. Plaintiff's
5 employment ended on or around November 4, 2022. During his tenure, Plaintiff was classified
6 as an hourly, non-exempt employee. His latest rate of pay was approximately \$32 per hour.

7 7. GLOBAL SPECTRUM has committed numerous labor code violations against Plaintiff.

8 8. GLOBAL SPECTRUM did not provide Plaintiff with the minimum wages to which he
9 was entitled for all work performed and as such did not compensate Plaintiff for all hours worked
10 at the minimum wage rate pursuant to California Labor Code sections 1194, 1197 and 1197.1.
11 This is so because the company had a policy of rounding down employee hours to the detriment
12 of the employees, which resulted in employees such as Plaintiff not being paid for all hours
13 worked, including the minimum wage. In addition, Plaintiff worked "off the clock" in that
14 Plaintiff's statutory breaks would be interrupted as Plaintiff would get radio calls to perform
15 work-related duties during any breaks (to the extent they were able to get a break). Since Plaintiff
16 would have worked while "off the clock" and was not compensated for that time, GLOBAL
17 SPECTRUM would have also violated California's minimum wage laws.

18 9. Due to the above "off the clock" violations, including the time shaving/rounding,
19 GLOBAL SPECTRUM also violated Labor Code §510 because it failed to pay Plaintiff the
20 correct amount of overtime, even though he worked more than 8 hours per day, 12 hours per
21 day, and/or 40 hours per week throughout his employment. Furthermore, GLOBAL
22 SPECTRUM did not include bonuses and other forms of additional compensation, including
23 incentive pay, in calculating the correct regular rate of pay for purposes of then calculating the
24 correct overtime rate of pay. Additionally, the incentive and bonus payments were also not
25 factored into Plaintiff's regular rate for purposes of receiving meal and rest break premiums per
26 the Ferra v. Loews case.

27 10. GLOBAL SPECTRUM violated Labor Code § 226.7 and the applicable Industrial
28 Welfare Commission Wage Order (nos. 4/5) because it failed to provide Plaintiff 10-minute rest
periods for every four hours of work, or majority portion thereof, throughout his employment.

1 GLOBAL SPECTRUM did not completely relieve Plaintiff of all duty during said rest periods.
2 GLOBAL SPECTRUM did not pay to Plaintiff one additional hour of pay at Plaintiff's regular
3 rate of compensation for each workday that one or more statutory rest periods was not provided.
4 It was not part of the company policy and culture for employees such as Plaintiff to take timely,
5 statutory rest breaks. Rest periods were simply not part of the company policy and were not
6 enforced whatsoever.

7 11. GLOBAL SPECTRUM violated Labor Code §§ 512 and 226.7 and the applicable
8 Industrial Welfare Commission Wage Order (nos. 4/5) because it failed to provide Plaintiff the
9 requisite 30-minute, uninterrupted meal periods for every five (5) hours of work (and before the
10 fifth hour) throughout his employment, and Plaintiff did not validly waive said meal periods.
11 GLOBAL SPECTRUM did not completely relieve Plaintiff of all duties during said meal
12 periods. GLOBAL SPECTRUM did not pay to Plaintiff one additional hour of pay at Plaintiff's
13 regular rate of compensation for each workday that one or more statutory meal periods was not
14 provided. Like the rest breaks, receiving a timely, thirty-minute uninterrupted meal break, before
15 the 5th hour worked, was not part of the company culture and was not enforced by GLOBAL
16 SPECTRUM. It was the normal practice and custom of GLOBAL SPECTRUM not to authorize,
17 permit, and enforce timely statutory meal periods. As alluded to above, there were numerous
18 occasions wherein Plaintiff's meal periods would be interrupted as he would get a radio message
19 (on his radio, which would be on him at all times) that he needed to perform a work-related duty.
20 Plaintiff would end up cutting his meal break short and performing those work-related duties.
21 To the extent that GLOBAL SPECTRUM argues that there is an "On Duty Meal Period
22 Agreement" in place, their argument would not hold water since the nature of Plaintiff's work
23 does not prevent him from getting a timely, uninterrupted meal period wherein he is relieved of
24 all work duties. As such, the work environment and culture at GLOBAL SPECTRUM was not
25 conducive to receiving consistent, timely, statutory meal breaks under California law. Moreover,
26 any meal or rest break premiums paid were not compensated at the weighted average regular
27 rate, inclusive of bonuses and/or incentive payments.

28 12. Furthermore, during the relevant time period, and due to the above labor code violations,
GLOBAL SPECTRUM failed to pay Plaintiff all wages due to him within any time period

1 specified by California Labor Code section 204, especially since wages were paid more than 7
2 days after the end of each pay period. GLOBAL SPECTRUM was also in violation of California
3 Labor Code section 226(a) by failing to include pertinent information on the wage statements,
4 including but not limited to, all hourly rates, all hours worked, overtime hours worked, correct
5 overtime pay, gross wages earned, net wages earned, premium pay for missed/late/short meal
6 and rest breaks, all deductions, the correct start and end of the pay period, all employee
7 identifying information, the correct name and address of the legal employer, and reimbursement
8 for business expenses, among others. As such, GLOBAL SPECTRUM did not provide Plaintiff
9 with complete, accurate itemized wage statements.

10 13. GLOBAL SPECTRUM violated Labor Code § 203 because it willfully failed to pay
11 Plaintiff earned and due wages upon separation of employment, either immediately upon
12 involuntary termination, or within 72 hours of resignation. These earned but unpaid wages
13 include the unpaid minimum wages/compensation for all hours worked, overtime, premium pay
14 for missed/late/short meal and rest breaks, and business expense reimbursement, among others.

15 14. During the relevant time period, GLOBAL SPECTRUM also failed to keep accurate and
16 complete payroll records showing the correct wages paid to Plaintiff (along with the times that
17 Plaintiff took statutory breaks) pursuant to California Labor Code sections 1174(d).

18 15. Alternatively, during the relevant time period, Plaintiff incurred necessary, business-
19 related expenses and costs that were not reimbursed by GLOBAL SPECTRUM. These costs
20 include, but are not limited to, shoes that Plaintiff was required to purchase for work purposes.
21 Accordingly, GLOBAL SPECTRUM was in violation of California Labor Code sections 2800
22 and 2802.

23 16. Furthermore, GLOBAL SPECTRUM violated the applicable Industrial Welfare
24 Commission Wage Order (Wage Order 4/5, Section 13(b)) in that there was no proper suitable
25 seating/break area for Plaintiff.

26 17. Plaintiff was discriminated against and terminated due to his age and related seniority
27 status in the company in contravention of California law. Throughout his twenty year
28 employment and at the time Defendants terminated Plaintiff's employment, Plaintiff was
performing his work satisfactorily. Defendants informed Plaintiff that his employment was being

1 terminated because there was “no more work.” On information and belief, Defendants continued
2 to employ younger employees that had less experience than Plaintiff and replaced Plaintiff’s
3 position with an employee that was significantly younger than Plaintiff. When Plaintiff
4 confronted management about younger employees remaining employed, his manager informed
5 him that he was being terminated for not having forklift certification. Plaintiff questioned
6 management about why such forklift certification was never brought to his attention before.
7 Management responded that there was just no need for him and no more work. Also, GLOBAL
8 SPECTRUM treated the younger employees more favorably. Management constantly changed
9 Plaintiff’s schedule and would require that Plaintiff consistently work overtime. However,
10 Defendants would not change the other younger employees’ schedules and would not require
11 them to work overtime. It is Plaintiff’s position that any justification offered by GLOBAL
12 SPECTRUM for Plaintiff’s termination was and is pretextual as GLOBAL SPECTRUM
13 unequivocally had the required discriminatory animus.

14 18. Plaintiff has exhausted his administrative remedies. Prior to the filing of this lawsuit,
15 Plaintiff filed a complaint with the Department of Fair Employment and Housing (“DFEH”),
16 alleging claims in this complaint. The DFEH immediately issued to Plaintiff a right to sue letter.

17 **FIRST CAUSE OF ACTION**

18 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

19 **(California Industrial Welfare Commission Order 4/5-2001, California Code of
20 Regulations Title 8 Section 11040/11050, and California Labor Code Section 1198)**

21 **(Plaintiff against all named defendants and all DOE defendants)**

22 19. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
23 alleged herein.

24 20. At all times relevant herein, Defendants were required to compensate their employees for
25 all hours worked upon reporting for work at the appointed time stated by the employer pursuant
26 to Industrial Welfare Commission Order 4/5-2001, California Code of Regulations, Title 8,
27 Section 11040/11050.

28 21. For the three (3) years preceding filing of this action, Defendants failed to compensate
Plaintiff for all hours worked.

1 22. Under the aforementioned wage order and regulations, Plaintiff is to recover
2 compensation for all hours worked but not paid by Defendants for the three (3) years preceding
3 the filing of this Complaint.

4 23. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
5 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
6 this Court.

7 24. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
8 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is entitled
9 to recover damages for the nonpayment of wages for all hours worked, penalties, plus reasonable
10 attorney's fees and costs of suit.

11 25. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
12 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
13 amount known to Plaintiff once he has obtained all of his payroll records from Defendants.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

16 **(California Labor Code Sections 1194, 1194.2, 1197)**

17 **(Plaintiff against all named defendants and all DOE defendants)**

18 26. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
19 alleged herein.

20 27. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
21 to suffer or permit a California employee to work without paying wages at the minimum wage
22 rate for all hours worked as required by the applicable Industrial Welfare Commission
23 (hereinafter "IWC") Wage Order Nos. 4/5-2001, codified at California Code of Regulations,
24 Title 8, Section 11040/11050, subdivision 4.

25 28. Pursuant to IWC Wage Order nos. 4/5-2001, subdivision 2(K), at all relevant times,
26 "hours worked" included "the time during which an employee is subject to the control of an
27 employer, and includes all the time the employee is suffered or permitted to work, whether or
28 not required to do so..."

29. During his employment, Plaintiff was regularly required as a matter of uniform policy

1 and practice to work, and in fact worked, as an employee of Defendants and Plaintiff was paid
2 less than the minimum wage rate by Defendants for hours worked in violation of California
3 Labor Code Section 1197 and the applicable California Industrial Wage Commission wage
4 order(s).

5 30. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
6 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
7 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
8 to believe that their acts or omissions were not contrary to California law.

9 31. For all hours worked by Plaintiff for which he was paid less than the minimum wage rate
10 by Defendants, Plaintiff is entitled to not less than the applicable California minimum wage rate
11 and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount equal to unpaid
12 minimum wages and interests thereon. Pursuant to Labor Code Section 1194, Plaintiff is also
13 entitled to attorney's fees, costs and interests according to proof.

14 32. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO PAY OVERTIME**

19 **(California Industrial Welfare Commission Order 4/5-2001, California Code of**
20 **Regulations Title 8 Section 11040/11050; California Labor Code Section 510)**
21 **(Plaintiff against all named defendants and all DOE defendants)**

22 33. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
23 alleged herein.

24 34. Pursuant to Industrial Welfare Commission Order Nos. 4/5-2001, Cal. Code of Regs.,
25 Title 8, Section 11040/11050, for the period of Plaintiff's employment, Defendants were
26 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
27 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
28 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a

1 week.

2 35. Plaintiff was a non-exempt employee entitled to the protections of the California
3 Industrial Welfare Commission Order Nos. 4/5-2001, California Code of Regulations, Title 8,
4 Section 11040/11050.

5 36. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in
6 a single workweek on numerous occasions.

7 37. Plaintiff was entitled to the above overtime premiums.

8 38. Defendants did not pay Plaintiff premium wages of at least one and one-half times
9 Plaintiff's regular rate of pay for hours worked past eight (8) in a day.

10 39. Defendants did not pay Plaintiff premium wages of at least one and one-half times
11 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

12 40. Plaintiff worked at least one pay period in which he was not properly paid overtime
13 within the three (3) years prior to the initiation of this lawsuit.

14 41. Defendants know or should know the actual dates of overtime worked, the amount of
15 overtime worked, and the amount of unpaid overtime due.

16 42. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
17 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
18 Court.

19 43. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
20 Regulations, Title 8, Sections 11040/11050, Plaintiff is entitled to recover damages for the
21 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
22 reasonable attorney's fees and costs of suit.

23 44. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
24 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
25 trial.

26 ///

27 ///

28 ///

///

1 **FOURTH CAUSE OF ACTION**

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

3 **(California Labor Code Section 226)**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 45. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
6 alleged herein.

7 46. Pursuant to California Labor Code Section 226, every employer must furnish each
8 employee an itemized statement of wages and deductions at the time of payment of wages.

9 47. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
10 accurately reflected all information required by Labor Code Section 226, including but not
11 limited to, all hours worked, gross wages earned, including overtime, minimum wages, and
12 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the
13 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed to
14 maintain and provide accurate itemized wage statements to Plaintiff in accordance with
15 California Labor Code Section 226(a).

16 48. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
17 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
18 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
19 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
20 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
21 the 3-year period immediately preceding the date this lawsuit was filed.

22 49. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained
23 damages, including loss of earnings, in an amount to be established at trial. As a further direct
24 and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff is entitled to
25 recover penalties, in an amount to be established at trial, as well as costs and attorney's fees
26 pursuant to statute.

27 50. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
28 along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

///

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

3 **(California Labor Code Sections 201, 203)**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 51. Plaintiff incorporates by reference each and every paragraph of this Complaint as if
6 fully alleged herein.

7 52. Pursuant to California Labor Code Section 201(a), an employer who discharges an
8 employee must immediately pay for all compensation due and owing.

9 53. Pursuant to California Labor Code Section 202, when an employee resigns, the
10 employer must pay all compensation due and owing within 72 hours of resignation, or on the
11 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

12 54. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
13 without abatement or reduction, any wages of an employee whose employment ends, the wages
14 of the employee shall continue as a penalty from the due date at the same rate until paid or until
15 an action is commenced; however, the wages shall not continue for more than 30 days for failure
16 to pay an employee owed wages.

17 55. After Plaintiff's employment with Defendants ended and after Plaintiff was terminated
18 from his employment, Defendants willfully refused and continue to refuse to pay his unpaid
19 wages as required by Labor Code Section 203.

20 56. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
21 along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.
22 Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately preceding
23 the filing of this lawsuit.

24 57. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
25 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
26 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

27 58. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
28 along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

///

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

3 **(California Labor Code Section 204)**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 59. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
6 alleged herein.

7 60. California Labor Code Section 204 establishes the fundamental right of all employees in
8 the State of California to be paid wages in a timely fashion for their work.

9 61. At all times relevant during the liability period, Defendants failed to pay Plaintiff the full
10 amount of all owed wages when due as required by California Labor Code Section 204.

11 62. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is informed,
12 believes, and thereon alleges, that all times relevant during the liability period, Defendants
13 maintained a policy or practice of not paying Plaintiff wages for all hours worked, including
14 overtime hours, the minimum wage, and premium pay for missed meal and rest breaks.

15 63. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
16 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
17 amount of unpaid wages is not presently known to Plaintiff but can be determined directly from
18 Defendants' records or indirectly based on information from Defendants' records.

19 64. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
20 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
21 trial.

22 **SEVENTH CAUSE OF ACTION**

23 **FAILURE TO GIVE REST BREAKS**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 65. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
26 alleged herein.

27 66. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 28 a. Title 8 of the California Code of Regulations Sections 11040/11050(12)(A), which
provides that every employer shall authorize and permit all employees to take rest

periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;

- b. Title 8 of the California Code of Regulations Sections 11040/11050(12)(B), which provides that if an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at employee's regular rate of compensation for each workday that the rest period is not provided;
- c. Title 8 of the California Code of Regulations sections 11040/11050(20)(A), which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- d. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any rest period mandated by an applicable order of the Industrial Welfare Commission, and (b) if an employer fails to provide an employee a rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at employee's regular rate of compensation for each work day that the rest period is not provided.

67. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute rest break after every four (4) hours of work or major fraction thereof, as required by California law.

68. Under this cause of action, Plaintiff prays for wages due to him under the statutes, regulations, and wage orders alleged in this cause of action along with any allowable interest, penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

69. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's fees as well as interest under Labor Code section 218.6.

70. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at

1 trial.

2 **EIGHTH CAUSE OF ACTION**

3 **FAILURE TO GIVE MEAL BREAKS**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 71. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
6 alleged herein.

7 72. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 8 a. California Labor Code section 512(a), which requires that employees be given a 30-
9 minute uninterrupted meal break after five (5) hours of work, and a second
10 uninterrupted meal break after ten (10) hours of work;
- 11 b. California Labor Code section 226.7, which states that (a) no employer shall require
12 any employee to work during any meal period mandated by an applicable order of
13 the Industrial Welfare Commission, and (b) if any employer fails to provide an
14 employee a meal period in accordance with an applicable order of the Industrial
15 Welfare Commission, the employer shall pay the employee one (1) additional hour
16 of pay at the employee's regular rate of compensation for each workday that the meal
17 period is not provided;
- 18 c. California Industrial Welfare Commission Order Nos. 5 sections 11(B) and 11(D), as
19 codified under Title 8 of the California Code of Regulations Section 11040/11050,
20 which states that if an employer fails to provide an employee a meal period in
21 accordance with the applicable provisions of the Wage Order, the employer shall pay
22 the employee one (1) hour of pay at the employee's regular rate of compensation for
23 each workday that the meal period is not provided;
- 24 d. California Industrial Welfare Commission Wage Order Nos. 4/5 Section 7(A)(3), as
25 codified under Title 8 of the California Code of Regulations Section 11040/11050,
26 which requires an employer to maintain records documenting its employees' meal
27 periods;
- 28 e. California Industrial Welfare Commission Wage Order Nos. 4/5 Section 20(A), as
codified under California Code of Regulations Section 11040/11050, which penalizes

1 the employer \$50.00 for each initial violation, per employee, of any provision of the
2 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
3 f. California Labor Code section 1171 and 1173, which have given the California Labor
4 Commission jurisdiction to enact Wage Orders (such as Wage Order nos. 4/5) as
5 enforceable law.

6 73. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
7 after five (5) hours of work as required by California law. California Labor Code section 512(a)
8 and California Industrial Welfare Commission Order Nos. 4/5, as codified under California Code
9 of Regulations Sections 11040/11050 et. seq. requires that employees receive uninterrupted meal
10 periods every five (5) hours of consecutive work, and that the meal period be at least 30 minutes
11 in length, wherein employee is relieved of all work duty. California Labor Code section 226.7
12 provides that employers may not require their employees to work through their meal periods.
13 California Labor Code section 226.7 and California Code of Regulations section 11040/11050
14 requires that if the employer fails to provide the employee with an uninterrupted meal period,
15 the employer must pay the employee one (1) hour of pay for each work day that the meal period
is not given.

16 74. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
17 regulations, and wage orders alleged in this cause of action along with any allowable interest,
18 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
19 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

20 75. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's fees as
21 well as interest under Labor Code section 218.6.

22 76. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
23 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
24 trial.

25 **NINTH CAUSE OF ACTION**

26 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

27 **(Plaintiff against all named defendants and DOE defendants)**

28 77. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully

1 alleged herein.

2 78. Labor Code section 2802 provides that “[a]n employer shall indemnify his or her
3 employee for all necessary expenditures or losses incurred by the employee in direct
4 consequence of the discharge of his or her duties.”

5 79. Beginning at least 3 years prior to the filing of this complaint, in order to discharge his
6 duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course of
7 completing his job duties, which were not reimbursed by Defendants. These costs include, but
8 are not limited to, shoes for work purposes. Plaintiff is entitled to reimbursement for these
9 necessary expenditures, plus interest and attorney’s fees and costs, under Labor Code section
10 2802.

11 **TENTH CAUSE OF ACTION**

12 **AGE DISCRIMINATION IN VIOLATION OF THE FEHA**

13 **(Plaintiff against all named Defendants and all DOE Defendants)**

14 80. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
15 alleged herein.

16 81. Plaintiff was and is at all times relevant hereto an employee covered by Government
17 Code § 12926(c).

18 82. Defendants were at all times relevant hereto employers who employed five or more
19 persons within the meaning of Government Code § 12926(d), and California Government Code
20 §§ 12940, et seq., was in full force and effect and was binding on Defendants.

21 83. The Fair Employment and Housing Act prohibits an employer and its agents from
22 discriminating against employees, on the basis of their age. Cal. Gov. Code § 12940(a).

23 84. Plaintiff was born in 1966 and was 56 years old when GLOBAL SPECTRUM terminated
24 his employment.

25 85. Throughout his employment tenure and at the time of his termination, Plaintiff was
26 Performing his work satisfactorily.

27 86. On information and belief, Defendants continued to employ the younger employees and
28 replaced Plaintiff with an employee that was significantly younger than Plaintiff. Plaintiff’s age
and related seniority status in the company was a substantial motivating reason for Defendants’

1 decision to terminate his employment.

2 87. As a direct and proximate result of the aforementioned acts and omissions of Defendants,
3 Plaintiff suffered general and compensatory damages, including but not limited to, loss of
4 income (past and future), loss of employment benefits (past and future), general and
5 compensatory damages (past and future), mental pain and anguish and emotional distress (past
6 and future), and will continue to suffer in the future, in an amount to be proved at trial.

7 88. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive, and each
8 of their directors, officers and/or managing agents, constitutes malice, fraud, and oppression and
9 was authorized, ratified, and carried on with a conscious and willful disregard of their workers'
10 right to work in an environment in which personnel decisions and company policies are made
11 without regard to age, so as to justify the imposition of punitive damages to punish and set an
12 example of said Defendants.

13 89. As a proximate result of the foregoing conduct, which violated the provisions of
14 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
15 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

16 **ELEVENTH CAUSE OF ACTION**

17 **FAILURE TO PREVENT DISCRIMINATION IN VIOLATION OF FEHA**

18 **(Plaintiff against all named Defendants and all DOE Defendants)**

19 90. Plaintiff incorporates by reference each and every paragraph of this Complaint as if
20 fully alleged herein.

21 91. At all times herein mentioned, FEHA, California Government Code section 12940(k),
22 was in full force and effect and was binding on Defendants. This statute states that it is an
23 unlawful employment practice in California for an employer to "fail to take all reasonable steps
24 necessary to prevent discrimination and harassment from occurring."

25 92. During the course of Plaintiff's employment, Defendants failed to prevent their
26 employees, including management, from engaging in intentional actions that resulted in Plaintiff
27 being treated less favorably and eventually being terminated because of Plaintiff's protected
28 status (i.e. his age and related seniority status in the company). During the course of Plaintiff's
employment, Defendants failed to prevent their employees from engaging in unjustified

1 employment practices against employees in such protected classes. During the course of
2 Plaintiff's employment, Defendants failed to prevent a pattern and practice by its employees of
3 intentional discrimination and retaliation on the basis of age and related seniority status in the
4 company, and/or other protected status and/or protected activity.

5 93. Plaintiff believes and, on that basis, alleges that his age was a substantial motivating
6 factor in Defendants' employees' discriminating against him and terminating his employment.

7 94. As a direct and proximate result of the aforementioned acts and omissions of Defendants,
8 Plaintiff suffered general and compensatory damages, including but not limited to, loss of
9 income (past and future), loss of employment benefits (past and future), general and
10 compensatory damages (past and future), mental pain and anguish and emotional distress (past
11 and future), and will continue to suffer in the future, in an amount to be proved at trial.

12 95. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive, and each
13 of their directors, officers and/or managing agents, constitutes malice, fraud, and oppression and
14 was authorized, ratified, and carried on with a conscious and willful disregard of their workers'
15 right to work in an environment in which personnel decisions and company policies are made
16 without regard to age and related seniority status in the company, so as to justify the imposition
17 of punitive damages to punish and set an example of said Defendants.

18 96. As a proximate result of the foregoing conduct, which violated the provisions of
19 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
20 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

21 **TWELFTH CAUSE OF ACTION**

22 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

23 **(Plaintiff against all named Defendants and all DOE defendants)**

24 97. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
25 alleged herein.

26 98. At all times during his employment with Defendants, Plaintiff performed his duties with
27 the utmost diligence and competence.

28 99. Plaintiff is informed and believes and thereon alleges that Defendants' decision to

discriminate against him and terminate his employment, as alleged herein, was motivated by Plaintiff's age.

100. Plaintiff's employment was wrongfully terminated on or around November 4, 2022 in violation of the fundamental public policy of the State of California with respect to discriminating against an employee on account of his age and related seniority status in the company.

101. Moreover, Plaintiff was forced to hire an attorney to assist him to end these illegal activities.

102. Said conduct violated statutory and constitutional expressions of public policy including, but not limited to, the FEHA, and the California Constitution, Article 1 section 8.

103. As set forth above, said actions by Defendants were wrongful and in violation of the fundamental principles of the public policy of the State of California as reflected in its laws, objectives and policies. Said statutes and constitutional expressions of public policy include, but are not limited to, the FEHA, and the California Constitution, Article 1 section 8. These laws inure to the benefit of the public at large, and not just the private interests of the employers and employees whom they govern or protect.

104. As a direct and proximate result of the aforementioned acts and omissions of Defendants, Plaintiff suffered general and compensatory damages, including but not limited to, loss of income (past and future), loss of employment benefits (past and future), general and compensatory damages (past and future), mental pain and anguish and emotional distress (past and future), and will continue to suffer in the future, in an amount to be proved at trial.

105. The foregoing conduct engaged in by Defendants and each of their directors, officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified, and carried on with a conscious and willful disregard of their workers' right to work in an environment free of retaliation, so as to justify the imposition of punitive damages to punish and set an example of said Defendants.

///

1 **THIRTEENTH CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

3 **(California Business and Professions Code Section 17200)**

4 **(Plaintiff against all named Defendants and all DOE defendants)**

5 106. Plaintiff incorporates by reference each and every paragraph of this Complaint
6 as if fully alleged herein.

7 107. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
8 constitute unfair and unlawful business practices under California Business and Professions
9 Code Section 17200, et seq.

10 108. Defendants' violations of the FEHA, California labor laws and the Labor Code
11 constitutes a business practice because it was done repeatedly over a significant period of time
12 in a systematic manner that was detrimental to Plaintiff.

13 109. For the four years preceding the filing of this action, Plaintiff has suffered
14 damages and request damages and/or restitution of all monies and profits to be disgorged from
15 Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of
16 this Court.

17 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
18 follows:

- 19 1. For compensatory damages including lost past and future wages, regular wages,
20 overtime, and all other sums of money, including employment benefits, together with
21 interest on said amounts, and any other economic injury to Plaintiff, according to proof;
22 2. For general damages according to proof;
23 3. For special and consequential damages to the extent allowed by law;
24 4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
25 at trial;
26 5. For an award of punitive damages against Defendants according to proof;
27 6. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
28 subject to proof at trial;
 7. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to

proof at trial;

8. For restitution and disgorgement for all unfair business practices by Defendants against Plaintiff in an amount subject to proof at trial;

9. For an order enjoining Defendants from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;

10. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;

11. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;

12. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint;

13. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law;

14. For the imposition of civil penalties and/or statutory penalties;

15. For all interest as allowed by law;

16. For all costs and disbursements incurred in this suit;

17. Reasonable attorney's fees where available by law, including but not limited to, pursuant to the FEHA, California Labor Code and/or other applicable laws; and

///

///

///

///

///

///

///

///

///

1 18. For such other and further relief as this Court may deem proper.

2
3 DATED: May 17, 2023

MESSRELIAN LAW INC.

4 By Maralle Messrelian
5 Harout Messrelian, Esq.
6 Maralle Messrelian, Esq., Of Counsel
7 Attorneys for Plaintiff Arturo Gonzalez Jasso

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

10
11 DATED: May 17, 2023

MESSRELIAN LAW INC.

12 By Maralle Messrelian
13 Harout Messrelian, Esq.
14 Maralle Messrelian, Esq., Of Counsel
15 Attorneys for Plaintiff Arturo Gonzalez Jasso
16
17
18
19
20
21
22
23
24
25
26
27
28